

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39830 of 2023

Arising Out of PS. Case No.-99 Year-2021 Thana- BISHUNPUR District- Darbhanga

1. RAJA YADAV Son of Devendra Yadav Resident of village - Gorhiari (Mustafapur), P.S.- Bishanpur, Dist.- Darbhanga
2. Chhotu Sah Son of Ram Swarath Sah Resident of village - Gorhiari (Mustafapur), P.S.- Bishanpur, Dist.- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Md. Shahnawaz Ali, Adv.

For the Opposite Party/s : Mr.Choubey Jawahar, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 08-08-2023 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. Petitioners apprehend their arrest in connection with Bishanpur P.S. Case No.99/2021, registered for the offence punishable u/s 302/34 of the IPC.

3. As per the prosecution case, one Chotu took away the son of the informant on his motorcycle and took to Bagbaiya Gachhi where 8 to 10 boys were present and informant heard sound of firing. The informant went there and came to know that co-accused Md. Chotu had shot on the chest of his son, who was declared brought dead in the hospital.

4. It is submitted by learned counsel for the



petitioners that petitioners are quite innocent and have committed no offence. They are not named in the F.I.R. and have been falsely implicated in this case. During investigation, one co-accused Chhotu was apprehended by the police and disclosed the name of petitioners and other accused persons being his associates in the alleged offence. The allegation leveled against the petitioners is not specific rather general and omnibus in nature. Except the confessional statement of the co-accused, there is no material against the petitioners. Petitioners have no criminal antecedent.

5. Learned APP for the State opposed the prayer for bail by submitting that name of petitioners has been taken by the co-accused in his confessional statement and the Hon'ble Apex Court has held in the case of ***Indresh Kumar v/s The State of UP & Anr. (Criminal Appeal no.938 of 2022)*** that “statements under section 161 of Cr.P.C. may not be admissible in evidence, but are relevant in considering the prima facie case against an accused in an application for grant of bail in case of grave offence and here it is a case of murder.

6. Having regard to the facts and circumstances of the case and considering the nature of allegation, I am not inclined to enlarge the petitioners on bail. The prayer for grant of



anticipatory bail on their behalf is hereby rejected.

7. This application is accordingly dismissed.

8. However, petitioners are at liberty to surrender before the learned court below within a period of six weeks from today and seek regular bail and the learned Court below would pass order, preferably, on the same day, in accordance with law.

(Anjani Kumar Sharan, J)

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