

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43152 of 2023

Arising Out of PS. Case No.-137 Year-2023 Thana- GOPALPUR District- Patna

Rajnish Kumar @ Guddu Son Of Valishtar Ray Resident Of Village-
Vishanpur Saidali, Maniarpur, Ps- Raghopur, Distt- Vaishali

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Alok Kumar Sinha, Sr. Adv.
	:	Mr. Bhola Kumar, Adv.
For the Opposite Party/s	:	Mrs. Rita Verma

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 10-08-2023 Heard learned senior counsel for the petitioner and
learned APP for the State.

2. The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 363 and 365 of the Indian Penal Code but subsequently Section 302 and 201/34 of the Indian Penal Code has been added which is pending in the learned court below.

3. As per the prosecution case, the son of the informant, namely, Karan Giri, is missing and not returned at home till the institution of the F.I.R.

4. Learned senior counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. He further submits that the petitioner is not named in the FIR. He submits that the name of the petitioner transpired on



the basis of the confessional statement of the co-accused, namely, Ashish Kumar which is not admissible in law. He further submits that there is no incriminating article has been recovered from the house or from the conscious possession of the petitioner. He submits that He further submits that petitioner has got no criminal antecedent as stated in para-3 of the bail application.

5. Per contra, learned APP for the State vehemently opposing the bail application and submitting that the petitioner is made accused on the basis of the C.D.R. and confessional statement of the co-accused. Relying upon the judgment of the Hon'ble Apex Court passed in the case of "***Indresh Kumar Vs. The State of U.P. & Anr. (Criminal Appeal No. 938 of 2022)***" whereby the Court held that "Statements under Section 161 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." Hence, he does not deserve anticipatory bail.

6. Considering the facts and circumstances of the case and the fact that the offence is under Section 302 of the Indian Penal Code which is a heinous crime, I am not inclined to enlarge the petitioner on bail in connection with Gopalpur P.S.



Case No. 137 of 2023. Accordingly, his prayer for anticipatory
bail is hereby rejected.

(Anjani Kumar Sharan, J)

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