

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3118 of 2023

Arising Out of PS. Case No.-35 Year-2023 Thana- KHAJEKALA District- Patna

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1. Md. Shamim @ Dablu Son Of Md. Haidar Imam Resident Of Village - Jhauganj, Near Lala Toli More Sadargali Banwari Tola, Ranipur, Milkichak, Ps- Khajekalan, Distt- Patna
 2. Md. Raja @ Md. Naushad @ Raja Son Of Md. Haidar Imam Resident Of Village - Jhauganj, Near Lala Toli More Sadargali Banwari Tola, Ranipur, Milkichak, Ps- Khajekalan, Distt- Patna

... .. Appellant/s

Versus

1. The State of Bihar
2. Sunita Devi Wife Of Late Devi Chaudhary Resident Of Village - Sadargali, Kali Mandir, Adarsh Colony, Ps- Khajekalan, Distt- Patna

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Raj Krishna Jha
For the Respondent/s : Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 01-11-2023 Heard learned counsel for the appellants and learned
Special Public Prosecutor for the State.

2. Learned Spl. PP for the State, in compliance of order dated 30.08.2023, informed the informant/complainant. Nobody appeared on behalf of the informant/complainant.

3. This is an appeal under Section 14 A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the SC/ST Act), against the refusal of prayer of anticipatory bail vide order dated 15.06.2023 passed by learned Special Judge



SC/ST, Patna, in connection with Khajekalan P.S. Case No. 35 of 2023 registered under Sections 302, 120(B), 34 of the Indian Penal Code and Section 27 of the Arms Act and Section 3(i)(r) (s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

4. As per the prosecution case, allegation against the appellants is that they along with other co-accused have committed murder of the husband of the informant.

5. Learned counsel for the appellants submits that the appellants are innocent and have falsely been implicated in the present case. He submits that there is no eye witness in the present case and merely on the basis of suspicion appellants have been made accused in the present case. He further submits that there is specific allegation against co-accused Md. Danish. He also submits that the appellants' name have been inserted in this case only because they are brothers of co-accused Md. Danish. Appellants have got no antecedent as mentioned in para-3 of memo of the appeal.

6. Learned Spl. PP for the State opposes payer for anticipatory bail the appellants are also involved in the present case. He also relied upon the judgment of the Hon'ble Apex Court in the case of *Indresh Kumar vs. The State of UP & Anr.*



(Criminal Appeal No. 938 of 2022), whereby the Court has held that ‘Statements under Section 161 of the 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’.

7. Considering the facts and circumstances of case and the judgment of *Indresh Kumar (supra)*, I am not inclined to enlarge the appellants on anticipatory bail. The prayer for anticipatory bail of the appellants is hereby rejected.

(Anjani Kumar Sharan, J)

anand/-

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