

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46684 of 2023

Arising Out of PS. Case No.-9 Year-2023 Thana- BIHPUR District- Bhagalpur

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AMIT KUMAR S/O RAMANAND YADAV R/O VILLAGE-
MADHURAPUR, PS. BHAWANIPUR, DIST. BHAGALPUR

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 47106 of 2023

Arising Out of PS. Case No.-9 Year-2023 Thana- BIHPUR District- Bhagalpur

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SANNI KUMAR S/O CHANDRA SEKHAR YADAV @ CHANO YADAV
R/O Village- Madhurapur, P.S- Bhawanipur, Distt.- Bhagalpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 46684 of 2023)

For the Petitioner/s : Mr.Ashok Kumar Yadav, Adv.

For the Opposite Party/s : Mr.Akshay Lal Pandit, APP

(In CRIMINAL MISCELLANEOUS No. 47106 of 2023)

For the Petitioner/s : Mr.Ashok Kumar Yadav, Adv.

For the Opposite Party/s : Mr.Manoj Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 19-09-2023 As both these cases arise out of the same police station case numbers, they are being taken up and heard together and are being disposed of by this common order.

Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. Petitioners apprehend their arrest in connection with



Bihpur (Bhawanipur) P.S. Case No.09/2023, registered for the offence punishable u/s 457/380 of the IPC.

3. As per the prosecution case, some unknown persons broke open ventilator of informant's Godown and committed theft of large number of cartoons of oil packets.

4. It is submitted by learned counsel for the petitioners that petitioners are quite innocent and have committed no offence. They have been falsely implicated in this case. No such occurrence, in the manner as alleged, has ever taken place. No incriminating article has been recovered from the conscious physical possession of the petitioners. One co-accused was apprehended by the police and on his confessional statement, stolen articles were recovered from the house of one Munna Yadav and he has also taken the name of petitioners. Petitioners have no criminal antecedent.

5. Learned APPs for the State opposed the prayer for bail by submitting that petitioners' name has been taken by the apprehended co-accused, on whose confessional statement, the stolen articles were recovered and in view of the judgment of the Apex Court in the case of ***Indresh Kumar v/s The State of UP & Anr. (Criminal Appeal no.938 of 2022)***, it is clear 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.

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. These applications are accordingly dismissed.

(Anjani Kumar Sharan, J)

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