

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.473 of 2024**

Arising Out of PS. Case No.-152 Year-2022 Thana- SHEKHPURA District- Sheikhpura

1. SUNIL SINGH @ SUNIL KUMAR S/O LATE SHYAM KISHOR SINGH R/O VILLAGE- MURAUURA, P.S- BIHAR SHARIF, DISTT.- NALANDA.
2. VIKASH KUMAR S/O SUNIL SINGH @ SUNIL KUMAR R/O VILLAGE- MURAUURA, P.S- BIHAR SHARIF, DISTT.- NALANDA.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. MANOJ KUMAR S/O SRI BHAGWAN SINGH R/O VILLAGE- GAWAI, P.S- SHEIKHPURA (HATHIYAWAN O.P), DISTT.- SHEIKHPURA.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Dinkar Kumar
For the Respondent/s : Mr.Md. Shakir Ahmad

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 27-06-2024 Heard the parties.

2. The petitioners have been summoned by the trial court after considering the evidence of the witnesses by the impugned order.

3. Learned counsel for the petitioners has submitted that though the petitioners were named in the F.I.R. and there was general and omnibus allegations against the petitioners and no protest application was filed by the informant when the final form was submitted by the police.

4. Section 319 of the Cr. P.C. reads as follows:-

“319. Power to proceed against other persons appearing to be guilty of offence.- (1)Where, in the course of any inquiry into, or trial



of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.

(2) Where such person is not attending the Court he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.

(3) Any person attending the Court although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.

(4) Where the Court proceeds against any person under Sub-Section (1) then—

- 1. the proceedings in respect of such person shall be commenced afresh, and witnesses re-heard;*
- 2. subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced.*

5. In view of the law laid down by the Hon’ble Supreme Court in the case of ***Hardeep Singh Vs. State of Punjab & Ors.*** reported in ***(2014) 3 SCC 92*** and considering the materials available on record particularly the deposition witnesses, no ground for interference is made. This application is dismissed.

6. The petitioner may participate in the trial.

(Sandeep Kumar, J)

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