

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69154 of 2023

Arising Out of PS. Case No.-154 Year-2023 Thana- DURGAWATI District- Kaimur (Bhabua)

=====

SOHAIL KHAN @ SANNU KHAN Son of Late Sabir Khan Resident of
Village-Dumari, Police Station-Durgawati, District-Kaimur (Bhabua).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. V.N.P. Singh, Sr. Adv. Mr. Rajesh Kumar, Adv.
For the State	:	Mr. Anuj Kumar Shrivastava, APP
For the Informant	:	Mr. Sada Nand Roy, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 19-03-2024 Heard learned Senior Counsel for the petitioner,

learned A.P.P. for the State and learned counsel for the

informant.

2. The petitioner apprehends his arrest in Durgawati

P.S. Case No. 154 of 2023 registered for the offences punishable

under Sections 302, 34 of the Indian Penal Code and Section

25(1-b)a, 26, 35, 27 of the Arms Act.

3. As per the prosecution case, the allegation

against the petitioner is that he along with other co-accused

persons on 23.05.2023, with a common intention, committed

the murder of the deceased (Md. Jahangir Khan).



4. Learned Senior Counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. The allegation levelled against the petitioner is not specific rather general and omnibus in nature. He submits that the petitioner has been made accused in the present case on the basis of confessional statement of co-accused persons before the police, who stated that the petitioner that has assaulted the deceased person by pistol. He further submits that there is no eye-witness in the present case. He also submits that petitioner has been made accused in the present case merely on the basis of suspicion. The petitioners have no criminal antecedent as mentioned in para-3 of this application.

5. Learned APP for the State and learned counsel for the informant opposed the prayer for anticipatory bail and submitted that the petitioner is involved in the present case. They 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'.



6. Considering the facts and circumstances of case and the judgment of Hon’ble Apex Court passed in the Case of **Indresh Kumar** (*supra*), I am not inclined to enlarge the petitioner on anticipatory bail. The prayer for anticipatory bail of the petitioner is hereby rejected.

7. However, if the petitioners surrender before the learned Court below within six weeks from today and seek regular bail, the learned Court below would pass order on the same day in accordance with law without being prejudiced by this order, considering the fact that the petitioner has no criminal antecedent.

(Anjani Kumar Sharan, J)

anand/-

U		T	
---	--	---	--

