

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66579 of 2023

Arising Out of PS. Case No.-53 Year-2023 Thana- SARAIYA District- Muzaffarpur

Dharmendra Kumar Son Of Rampravesh Mahto Resident Of Village-
Ramchandrapur, P.S- Paroo, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anish Kumar

For the Opposite Party/s : Mr. Ahmad Ali

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 22-01-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends his arrest in Saraiya (Jaitpur O.P.) P.S. Case No. 53 of 2023 registered for the offences punishable under Section 395, 397 of the Indian Penal Code and Sections 27, 25(1-b)a, 26, 35 of the Arms Act, pending in the Court of learned A.C.J.M.-IV, Muzaffarpur (West).

3. As per the prosecution case, six unknown miscreants riding three motorcycles came to the shop of the informant and assaulted him by butt of a pistol on his head. One of the miscreants also shot a fire but the same got misfired. Miscreants looted Rs. 40,000/- from galla of the shop and also snatched two ATM cards, Aadhar Card, Pan Card, Credit Card from pocket of the informant.

4. Learned 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 is not named in the F.I.R., he has been made accused in the present case on the basis of confessional statement of co-accused. The petitioner has no criminal antecedent as mentioned in para-3 of this application.

5. Learned APP for the State opposes the prayer for bail and submits that the petitioner is also involved in the present case. He also relies 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, nature of the offence 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.

(Anjani Kumar Sharan, J)

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