

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69927 of 2023

Arising Out of PS. Case No.-205 Year-2022 Thana- KHAIRA District- Saran

Chhatthu Kumar @ Chhotu Kumar @ Chhotu Kumar Thakur @ Mohit
Kumar Thakur Son Of Harendra Kumar Thakur Village- Siswan Ps- Ishuapur
Dist- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jitendra Kumar

For the Opposite Party/s : Mr. Anil Kumar

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 30-01-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends his arrest in Khaira P.S.
Case No. 205 of 2022 registered for the offences punishable
under Sections 302, 201/34 of the Indian Penal Code pending in
the Court of learned Judicial Magistrate, First Class, Saran at
Chapra.

3. As per the prosecution case, the informant
received information from Khaira Police Station that his son
Kundan Kumar has been killed and, accordingly, the informant
along with family members reached there and saw his son was
lying dead who appeared to have been murdered by unknown
persons by brutally assaulting and tying scarf around his neck.



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 petitioner is not named in the F.I.R. and no incriminating article has been recovered from the house of the petitioner. He further submits that the name of the petitioner has surfaced in this case on the basis of confessional statement of co-accused Sachin Kumar. The petitioner has no criminal antecedent as mentioned in para-3 of this application.

5. Learned APP for the State opposes the prayer for anticipatory bail and submits that 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 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 petitioner surrenders 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)

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