

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2893 of 2024

Arising Out of PS. Case No.-639 Year-2023 Thana- KOILWAR District- Bhojpur

1. Govind Yadav Son of Jairam Yadav Resident Of Village- Mokhalisha, P.S.- Jagdishpur District-Bhojpur
2. Mahadev Kumar @ Tamatar Son Of Hareram Yadav Resident Of Village- Mokhalisha, P.S.-Jagdishpur District-Bhojpur

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners : Mr. Prabhat Kumar Singh
For the Opposite Party : Mr. Md. Mushtaque Alam, APP

**CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA
CHAKRAVARTHY**

ORAL ORDER

2 31-01-2024 The petitioners have filed this application under Section 438 of the Cr.P.C., praying for anticipatory bail for the petitioner nos. 1 and 2, who alleged to have committed offences punishable under Sections 379 & 461 of the Indian Penal Code (in short 'IPC').

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

3. The case of prosecution in short is that the informant has purchased Railway scrap and stored in the godown along with other materials. It is alleged that on 30.10.2023, some articles of petal price worth Rs. 8 Lakhs were found missing committed theft by someone and the informant



suspected that the petitioners, who were working as labour under him might have committed the theft.

4. It is the contention of the learned counsel for the petitioners that though the offences alleged against the petitioners are punishable for less than seven years, the Police are trying to arrest the petitioners and that too merely on suspicion, the case was being registered against them. Further, it is contended that in spite of the Apex Court decision in the case of *Arnesh Kumar vs. State of Bihar & Another* reported in **2014 (8) SCC 273**, the Police are not adhering the directions strictly and trying to arrest the petitioners for the offences which are punishable for less than seven years. Therefore, the petitioners constrained to approach this Court for the grant of anticipatory bail. It is further submitted that the application for anticipatory bail before the Trial Court was dismissed on 05.12.2023 by Learned Additional District and Sessions Judge, Bhojpur at Ara, therefore, the present application was filed.

5. On the other hand, Learned Additional Public Prosecutor for the State submits that the punishment for the said offences under Sections 379 & 461 of the IPC are below seven years and also contested that they can even approach the Police for bailable offences.



6. Considering the facts that the Police are not strictly adhering the judgment of the Apex Court in *Arnesh Kumar (Supra)*, this Court is of the considerable view that it is a fit case to grant anticipatory bail to the petitioners.

7. The petitioners shall be enlarged on anticipatory bail in the event of their arrest in Koilwar (Gedha O.P.) P.S. Case No. 639 of 2023 for the alleged offences punishable under Section 379 & 461 of the IPC and they shall produce two sureties for Rs 10,000/- each to the satisfaction of learned Chief Judicial Magistrate, Bhojpur at Ara.

8. Further, they shall cooperate with the investigation.

9. Therefore, the application for the anticipatory bail is allowed.

(G. Anupama Chakravarthy, J)

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