

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.14714 of 2015**

Arising Out of PS.Case No. -38 Year- 2014 Thana -KASMA District- AURANGABAD

=====

Fakrun Nisha Wife of Mahbub Alam, Resident of Village - Shahgunj  
Salempur, Police Station - Kasma, District - Aurangabad.

.... .... Petitioner

Versus

The State of Bihar

.... .... Opposite Party

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**Appearance :**

For the Petitioner : Mr. Purushotam Sharma, Advocate

For the Opposite Party : Mr. Shakir Ahmad, APP

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**CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI**

**ORAL ORDER**

4      25-06-2015                      This is an application, made under Section 438 of the Code of Criminal Procedure, seeking pre-arrest bail by the petitioner, namely, Fakrun Nisha, in connection with Kasma Police Station Case No. 38 of 2014 under Sections 304B read with Section 34 of the Indian Penal Code.

Perused the above application and materials on record including a copy of the order, dated 18.03.2015, passed, in A.B.P. No. 252 of 2015, by the learned Sessions Judge, Aurangabad, rejecting the said application for pre-arrest bail.

Heard Mr. Purushottam Sharma, learned counsel for the petitioners, and Mr. Shakir Ahmad, learned Additional Public Prosecutor, appearing for the State.

The High Court, while exercising its powers under Section 438 Code of Criminal Procedure, stands on the same

footing as does a Sessions Judge inasmuch as a High Court and Sessions Judge have coordinate jurisdiction, while exercising power under Section 438 Code of Criminal Procedure.

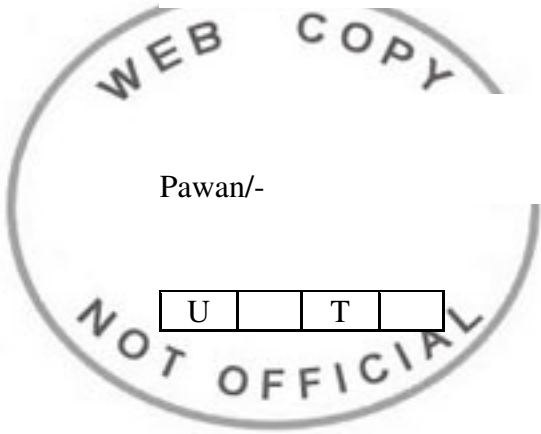
The petitioner was named as an accused in the case aforementioned; but as the petitioner kept absconding, *charge sheet* was filed against the petitioner's son, namely. Imamul Hassan, who, on trial, has been acquitted and after his acquittal, the petitioner has, now, made this application seeking pre-arrest bail.

Merely because the petitioner's son has been acquitted, the petitioner cannot be granted anticipatory bail, more so, when the petitioner had been absconding and has offered no explanation for having run away from law.

Taking, therefore, the matter in its entirety, this Court does not find that the petitioner has been able to make out any case calling for granting her the benefit of pre-arrest bail.

In view of the above and in the interest of justice, the prayer for pre-arrest bail is hereby rejected. If, however, the *petitioner* surrenders to the Court of competent jurisdiction and applies for bail, the learned Court below may, considering the fact that the *petitioner* is a female person, allow her to go on bail

provided that she offers necessary surety.



Pawan/-

**(I. A. Ansari, J)**