

Criminal Miscellaneous No.36911 of 2016

1. Goruri Shankar Singh @ Gauri Shankar @ Chhabu Singh
@ Gauri Shankar Singh, S/o Sikandar Singh.

Resident of Village- Bahorna, P.S.- Belhar (Khesar), Distt.- Banka.

Versus

1. The State of Bihar.

.... Opposite Party/s

Appearance :

For the Petitioner/s :Mr. Yogesh Chandra Verma, Sr. Adv.

Mr. Chandra Mohan Jha, Adv.

For the State :Mr. Uday Pratap Singh, Adv.

For the Informant :Mr. Nirbhay Kr. Singh, Adv.

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

2 21-09-2016 Heard learned Senior Counsel, appearing on
behalf of the petitioners, learned Additional Public
Prosecutor, appearing on behalf of the State, and learned
Counsel, appearing on behalf of the informant.

This application, for grant of anticipatory bail, arises out of Belhar (Khesar) P.S. Case No. 144 of 2016 (G.R. No. 1022 of 2016), disclosing offences under

Sections 147, 148, 149, 341, 324, 323, 307, 379, 504, 506 and 302 of the Indian Penal Code.

Learned Senior Counsel, appearing on behalf of the petitioners, has submitted that though specific allegations have been made in the First Information Report against the persons named therein by the informant, who claims to be an eye-witness, the petitioners are not named in the First Information Report. He has submitted that in course of investigation by the police, one witness has taken the petitioners' name maliciously.

Learned Counsel, appearing on behalf of the informant, while opposing the prayer for anticipatory bail, has submitted that processes, under Sections 82 and 83 of the Code of Criminal Procedure, have been issued and in the light of Supreme Court's decision, in case of **Lavesh Vs. State (NCT of Delhi)**, reported in **2012 (8) SCC 730**, this application for anticipatory bail may not be entertained.

To the submission advanced on behalf of the informant, learned Senior Counsel, appearing on behalf of the petitioners, has submitted that the case of the present petitioners is distinguishable from the case of **Lavesh** (supra) inasmuch as the petitioners are not named in the

First Information Report. He has also submitted that the petitioners were not absconding from the process of investigation rather they have been pursuing their remedy for grant of anticipatory bail before the Court of learned Sessions Judge.

Upon consideration of rival submissions made on behalf of the petitioners and the informant, I find substance in the submission made on behalf of the informant that once the petitioners have been declared absconder, his application, seeking anticipatory bail, cannot be entertained in the light of Supreme Court's decision, in case of **Lavesh** (supra). In a subsequent decision, the Supreme Court, in case of **State of M.P. Vs. Pradeep Sharma**, reported in **(2014) 2 SCC 171**, has reiterated the law laid down in case of **Lavesh** (supra).

Considering the above, I am not inclined to entertain this application.

Mr. Yogesh Chandra Verma, learned Senior Counsel, appearing on behalf of the petitioners, has submitted that with similar allegation some of the accused persons have been granted the privilege of anticipatory bail.

This aspect can be looked into by the learned court below while considering the petitioners' application

for regular bail.

This application is, accordingly, dismissed with an observation that if the petitioners, above named, appear before the learned court below within a period of four weeks from today and seek regular bail, their application for regular bail shall be considered by the learned court below on its own merit without being prejudiced by dismissal of present application for grant of anticipatory bail.

(Chakradhari Sharan Singh, J.)

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