

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.35173 of 2018**

Arising Out of PS. Case No.-445 Year-2017 Thana- BARAUNI District- Begusarai

Govind Kumar son of Sachidanand Singh, Resident of Village- Simariya, P.S.  
Barauni, District- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Sandip Kumar Gautam

For the Opposite Party/s : Mr. Smt Renu Kumari

**CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA**  
**ORAL ORDER**

3      07-08-2018              Heard learned counsel for the petitioner and learned APP for  
the State .

Petitioner apprehend his arrest in Barauni P.S. case no. 445 of  
2017 instituted for the offence under Section(s) 341, 323,  
307,504/34 of the Indian Penal Code and Section 27 of the Arms  
Act..

Learned counsel for the petitioner has submitted that  
petitioner has clean antecedent. There is allegation that he shot fire  
but no injury was caused .

Learned APP for the State has submitted that proclamation  
under Section 82 Cr. P.C. has been issued. Therefore, anticipatory  
bail is not maintainable. In this respect, he has relied on a judgment  
reported in (2014) 2 SCC 171 ( **State of Madhya Pradesh vs  
Pradeep Sharma**) wherein the Hon'ble Apex Court has held if  
anyone is declared as an absconder/proclaimed offender in terms of



Section 82 Cr.P.C, he is not entitled to relief of anticipatory bail.

Learned counsel for the petitioner has relied on an order dated 7.2.2018 passed by co-ordinate Bench of this Court passed in Cr. Misc. no. 62208 of 2017 by which the accused has been granted anticipatory bail in that case.

This Court after looking into aforesaid order finds that Co-ordinate Bench has been persuaded on the basis of argument that summons has been issued under Section 82 Cr. P.C.

Section 82(1)Cr. P.C. clearly speaks “ that proclamation is issued against a person against whom a warrant has been issued and he has been absconding or concealing himself so that such warrant cannot be executed”. Section 83 Cr. P.C. speaks that “the court issuing a proclamation under Section 82 may for reasons to be recorded in writing, at any time after the issue of proclamation, order the attachment of any property, movable or immovable or both belonging to the proclaimed person”.

The Hon’ble Supreme Court in case of **Adri Dharan Das vs State of West Bengal reported in (2005) 4 SCC 303** has observed that “the power exercisable under Section 438 of Cr. P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse the liberty. An order under Section 438 Cr. P.C. is a device to secure



the individual's liberty, it is neither a passport to the commission of crimes nor a shield against any and all kinds of accusations likely or unlikely".

Therefore, this Court is not inclined to grant anticipatory bail to the petitioner. Prayer for anticipatory of petitioner stands rejected.

Petitioner may surrender before the Court below within a period of four weeks from the date of receipt of copy of this order and make prayer for regular bail which shall be considered by the court below on its own merit and disposed of, if possible, on the same day, in accordance with law without being prejudiced by the present order.

**(Sanjay Priya, J)**

shyambihari/-

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