

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67271 of 2018**

Arising Out of PS. Case No.-44 Year-2018 Thana- SIMRI District-
Darbhanga

- =====
1. Asha Devi Wife of Mahendra Roy @ Mathoran Roy @ Matheran Roy
 2. Mahendra Roy @ Matheran Roy Son of Jalesh Roy Both Resident of
Village-Jaganiya, P.S. Simari, Distt.-Muzaffarpur

... .. Petitioners

Versus

The State Of Bihar

... .. Opposite Party

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Appearance :

For the Petitioners : Mr. Alok Kumar Alok, Advocate.

For the Opposite Party: APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

4 26-02-2019 Heard learned counsel for the petitioners and learned
APP for the State.

2. The petitioners apprehend their arrest for the offences alleged under Sections 365, 366(A)/34 of the Indian Penal Code registered in connection with Simari P.S. Case No. 44 of 2018.

3. At the very outset, learned APP submits on the basis of paragraph-48 of the case diary that processes under Sections 82 and 83 of the Cr. P.C. had already been concluded and as such the anticipatory bail petition is not maintainable.

4. Learned counsel for the petitioners appears and has been heard.

5. In the above view of the matter, the anticipatory bail



petition cannot be entertained in view of the observations of the Apex Court in the case of *Lavesh Vs. State (NCT of Delhi)*, (2012) 8 SCC 730, in para 12 whereof it has been observed as follows -

“12. From these materials and information, it is clear that the present appellant was not available for interrogation and investigation and declared as “absconder”. Normally, when the accused is “absconding” and declared as a “proclaimed offender”, there is no question of granting anticipatory bail. We reiterate that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as proclaimed offender in terms of Section 82 of the Code is not entitled the relief of anticipatory bail.”

6. Similar view has been expressed in State of *M.P. vs. Pradeep Kumar*, (2014) 2 SCC 171.

7. The anticipatory bail petition stands dismissed as not maintainable. It is made clear that if the petitioners surrender and seek for regular bail before the Court below, the same shall be considered and disposed of on its own merits.

(Vikash Jain, J)

Ibrar/Chandran

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