

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55851 of 2018

Arising Out of PS. Case No.-49 Year-2017 Thana- MAHILA P.S. District- Kishanganj

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Zainuddin @ Md. Zainuddin @ Md.Jainudwin S/o Madhu, R/o Village
Tikatoli, P.S.- Galgalia, District- Kishanganj.

... .. Petitioner

Versus

1. The State Of Bihar
2. Roshan Khatoon, D/o Md. Latif, Resident of Village Tikatoli, P.S.-
Galgalia, District- Kishanganj.

... .. Opposite Parties

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Appearance :

For the Petitioners	:	Mr. Md. Hussain, Advocate
For the State	:	APP
For Opposite Party No.2	:	Mr. Bhola Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

5 08-03-2019 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest for the offences
alleged under Section 376 of the Indian Penal Code registered in
connection with Kishanganj Mahila P.S. Case No. 49 of 2017.

3. At the very outset, learned APP invites reference to
paragraph 160 of the case diary to submit that process under
Section 82 of the Cr.P.C. has been concluded and the petitioner
has been declared as absconder.

4. Having regard to the submission of the APP, 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 a proclaimed offender in terms of Section 82 of the Code is not entitled the relief of anticipatory bail.”

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

6. The anticipatory bail petition stands dismissed as not maintainable.

(Vikash Jain, J)

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