

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67494 of 2019

Arising Out of PS. Case No.-304 Year-2017 Thana- PATNA COMPLAINT CASE District-
Patna

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OM PRAKASH SINGH @ OMPRAKASH SINGH Son of Late Lal Bahadur
Singh @ Lal Babu Singh Resident of Village-Bishunpura, P.S.-Bihta, District-
Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Chandeshwar Prasad Singh Son of Late Dindayal Singh @ Din Dayal Singh
Resident of Village-Bishunpura, P.S.-Bihta, District-Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Manish Kumar No 13
For the Opposite Party/s : Mr.Anish Chandra

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 07-11-2019 Heard learned counsel for the petitioner and

learned APP for the State.

2. The petitioner apprehends his arrest for the

offences alleged under Section 420 of the Indian Penal

Code registered in connection with Complaint Case No.

304 (C) of 2017.

3. At the very outset, learned APP invites

reference to the order of the learned Additional Sessions

Judge-V, Danapur dated 01.05.2019 in which it has been

noted that process under Section 82 Cr. P.C. has already

been issued against the petitioner and as such the

anticipatory bail petition is not maintainable. The

aforesaid fact has not been disputed by the petitioner.

4. 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) 8SCC 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 to the relief of anticipatory bail.”

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

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



7. If the petitioner surrenders and seeks regular bail before the learned trial Court the same shall be considered on its own merits in accordance with law and without being prejudiced by any observation in the present order.

(Vikash Jain, J)

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