

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73538 of 2018**

Arising Out of PS. Case No.-148 Year-2017 Thana- KANHAULI District-
Sitamarhi

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Maitun Khatoon @ Maiful Khatoon Wife of Allauddin Mansur @ Allauddin
Mansoori Resident of Village-Khap-Khopraha,P.S. Kanhauli,Distt.-
Sitamarhi

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Shankar Kumar, Advocate.

For the Opposite Party: APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

4 11-03-2019 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest for the offences
alleged under Sections 304(B)/34 of the Indian Penal Code
registered in connection with Kanhauli P.S. Case No. 148 of 2017,
G.R. No. 5422 of 2017.

3. At the very outset, learned APP states that process
under Section 82 Cr. P.C. has been concluded against the
petitioner and as such the anticipatory bail petition is not
maintainable.

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) 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.

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)

Ibrar/Chandran

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