

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 6874 of 2020**

Arising Out of PS. Case No.-110 Year-2019 Thana- ASARGANJ District- Munger

MD ASLAM Son of Md Jalil Resident of Village - Madarpur, P.S.- Asarganj,
Distt - Munger.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ajit Kumar Singh, Advocate
For the S t a t e	:	Mr Anant Kumar 1, APP
For the I n f o r m a n t	:	Mr Suman Kumar Mishra, Advocate

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

6 15-01-2021 Heard learned counsel for the petitioner and the
learned APP for the State.

The petitioner seeks bail in Asarganj Police Station
(for brevity, *PS*) Case No 110 of 2019 dated 11.09.2019
instituted for the offence punishable under Sections 147, 148,
149, 302 of Indian Penal Code.

On the occasion of *Muharram*, Tazia procession was
passing by. In the meantime, it is alleged that the petitioner,
armed with rod, and other co-accused persons, also armed with
sword etc, have assaulted the father of the informant. The
informant's father died in course of treatment.

Learned counsel for the petitioner submits that it is a
case of false implication. The petitioner is a *Havildar*, on the



verge of retirement. The informant has dragged the name of the petitioner in the case due to past enmity. He further submits that in the trial, witnesses have not supported the allegations.

The learned APP has opposed the prayer for anticipatory bail. He has pointed out from the case diary that the petitioner has already been declared an absconder and, therefore, is not in a position to make a prayer for grant of anticipatory bail.

This Court, after considering the submissions of the rival parties and having regard to the fact that the petitioner stands a declared absconder, is not inclined to allow the prayer for anticipatory bail. The same is rejected.

In this connection, judgment of the Apex Court in the case of *Lavesh -Versus- State (NCT of Delhi), (2012) 8 Supreme Court Cases 730* is being considered wherein the Apex Court has reiterated the legal position that when a person, against whom a warrant has been issued, is absconding or concealing himself in order to avoid execution of warrant and has also been declared an offender under Section 82 of Criminal Procedure Code, he is normally not entitled to the privilege of anticipatory bail.

This Court, however, would observe that the aforesaid



submissions advanced by the petitioner's counsel may be considered by the Court below, in the event the petitioner surrenders and makes a prayer for grant of regular bail, without in any way being affected by rejection of his prayer for anticipatory bail in the instant proceedings.

Learned counsel for the petitioner is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

M.E.H./-

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