

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2825 of 2021

Arising Out of PS. Case No.-260 Year-2020 Thana- UJIYARPUR District- Samastipur

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Manoranjan Kumar Giri, aged about 43 years, male, Son of Ramishwar Giri,
Resident of Village-Madhodhih, Ward No.-3, P.S.-Ujiyarpur, District-
Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Adv. Mr. Pramod Kumar Singh, Adv.
For the Informant	:	Mr. Ashok Choudhary, Sr. Adv. Mr. Akshansh Ankit, Adv.
For the State	:	Mr. APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

5 02-11-2021 Heard Mr. Ajay Kumar Thakur, the learned

Advocate for the petitioner and Mr. Ashok Choudhary, the

learned Senior Advocate for the informant. The State is

represented by the learned APP.

The petitioner seeks bail in anticipation of his

arrest in connection with Ujiyapur P.S. Case No. 260 of



2020, dated 28.08.2020, instituted for the offences under Sections 302, 120-B and 34 of the Indian Penal Code.

The deceased is said to have been shot dead by some of the accused persons.

The petitioner is not named in the F.I.R.

Later, during the course of investigation, his name transpired in the confession of co-accused/Keshav Mishra and others. The only allegation against the petitioner therefore is based on aforesaid confession, which is that he was also instrumental in getting the deceased killed as he was hostile to him and was having some kind of relation with the accused persons.

It has been submitted on behalf of the petitioner on an earlier occasion that he is the *Mukhiya* of the village and, therefore, there is every possibility of his being in contact with all the people of the locality, be it the informant's side or the family of the accused persons. Nonetheless, on the day of the occurrence, he has definite evidence to demonstrate that he was not present at the spot but was busy participating in an inaugural function of a



government scheme in a different *Panchayat*.

Considering the aforesaid submission made on behalf of the petitioner, the case diary was called for and the petitioner was granted provisional bail.

Today, during the course of argument, Mr. Ashok Choudhary, the learned Senior Advocate for the informant has drawn the attention of this Court to a judgment of Hon'ble Supreme Court in case of "*Prem Shankar Prasad Vs. The State of Bihar & Anr.*" (Cr. Appeal No. 1209 of 2021) in which, the grant of anticipatory bail by a Bench of this Court in a case where the petitioner was a proclaimed offender under Section 82 Cr.P.C. has been frowned upon.

Mr. Ajay Thakur, the learned Advocate for the petitioner has submitted in response to the aforesaid submission that for a person to be declared an offender, a proclamation in terms of Section 82 (4) of the Cr.P.C. is necessary. He further submits that mere initiation of a proceeding under Section 82 Cr.P.C. would not *ipso facto* make a person a proclaimed offender.

There is nothing on record to demonstrate it has



been argued by Mr. Thakur, that there has been a proclamation declaring the petitioner an absconder in this case. He has further drawn the attention of this Court to the fact that in case an accused person surrenders before the Court below or to the process of law before the date so fixed under Section 82 (1) Cr.P.C., then perhaps the proceeding initiated for declaring that accused an offender would not remain in operation.

Be that as it may, regard being had to the fact that the petitioner was earlier made accused in a couple of cases; notwithstanding the fact that he has been granted bail in all those cases, I am not inclined to grant him anticipatory bail.

The prayer for grant of anticipatory bail to the petitioner is, accordingly, rejected.

The interim order dated 22.07.2021 is, hereby, recalled/vacated.

However, if the petitioner surrenders before the Court below and seeks bail, the Court below, after taking into account that the petitioner has not been named in the F.I.R. and that his implication in this case is only the basis of



a confession of an arrested accused person and all other grounds which have been raised in this application, shall pass orders in accordance with law without being prejudiced by the fact that the present anticipatory bail application on his behalf has not been entertained by this Court.

The application stands disposed off accordingly.

(Ashutosh Kumar, J)

Praveen-II/-

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