

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15873 of 2021

Arising Out of PS. Case No.-288 Year-2020 Thana- BARARI District- Katihar

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BALESHWAR PRASAD SINGH @ BALESHWAR PRASAD SON OF
DEOSHARAN PRASAD SINGH @ DEOSHARAN PRASAD RESIDENT
OF VILLAGE- GANIPUR, P.S.- HILSA, DISTRICT- NALANDA.
PRESENTLY POSTED AT POLICE LINE KATIHAR, P.S.- KATIAHR
SAHAYAK, DISTRICT- KATIHAR.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bimal Kumar

For the Opposite Party/s : Mr. J.N.Thakur, APP

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**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

10 02-08-2022 Learned counsel for the petitioner is directed to

remove all the defects pointed out by the Stamp Reporter within

one month.

Heard the learned counsel for the petitioner and

learned APP for the State.

The petitioner apprehends his arrest for the

offences alleged under Sections 452, 341, 342, 323, 379, 384,

498, 504 and 506/34 of the Indian Penal Code, registered in

connection with Barari P.S.Case No. 288 of 2020.

Learned counsel for the petitioner has submitted that

two accused persons have been granted anticipatory bail by the

court below, to which Mr. J.N.Thakur, learned APP for the State

has submitted that the said accused persons who have been

granted anticipatory bail were not the main accused, but the

petitioner is the main accused with specific allegation against



him to commit rape upon the informant's wife.

By order dated 22.06.2022, a report regarding initiation of process under Section 82 of the Cr.P.C. was called for from the court below which has been received. From perusal of the report placed at Flag 'E', it appears that the process under Section 82 of the Cr.P.C. has been initiated against the petitioner.

Since the process under Section 82 of the Code has been issued in this case against the petitioner and in view of the decision reported in *(2014) 2 SCC 171, State of M.P. Vs. Pradeep Sharma*, the petitioner is not entitled for anticipatory bail. Paragraph no. 16 of the aforesaid decision is quoted hereinbelow:-

"16. Recently, in Lavesb v. State (NCT of Delhi) [(2012) 8SCC 730], this Court (of which both of us were parties) considered the scope of granting relief under Section 438 vis-a-vis a person who was declared as an absconder or proclaimed offender in terms of Section 82 of the Code. In para 12, this Court held as under : (SCC p.733)

"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.

It is clear from the above decision that if anyone is declared as an absconder/proclaimed offender in terms of section 82 of the Code, he is not entitled to the relief of anticipatory bail."

In view of the aforesaid decision quoted hereinabove, the petitioner is not not entitled for privilege of anticipatory bail. His prayer for anticipatory bail is hereby rejected.

Office shall ensure that all the defects are removed by the petitioner within the stipulated time provided hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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