

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18464 of 2021

Arising Out of PS. Case No.-15 Year-2020 Thana- NAURANGIA District- West Champaran

1. PRABHAVATI DEVI W/O LATE SARYUG SAHANI RESIDENT OF VILLAGE- MADANPUR, (BAZAR TOLA), POLICE STATION- NAURANGIYA, DISTRICT- WEST CHAMPARAN (BIHAR).
2. SANDEEP KUMAR SON OF CHANDARBHAN GOND RESIDENT OF VILLAGE- MADANPUR, (BAZAR TALA), POLICE STATION- NAURANGIYA, DISTRICT- WEST CHAMPARAN (BIHAR)

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Suresh Prasad Sharma
For the Opposite Party/s : Mr. Shailendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

3 08-03-2022 Learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.

None appeared on behalf of the petitioners.

Heard, Mr. Shailendra Kumar, learned Addl. P.P. for the State.

The petitioners apprehend their arrest for the offences alleged under Sections 406, 409 and 420/34 of the Indian Penal Code registered in connection with Nawrangiya P.S. Case No. 15 of 2020.

Learned Addl. P.P. has submitted that as per paragraph No. 237 of the case diary the process under Section 82 of the Code of Criminal Procedure, 1973, hereinafter to be referred to as 'the Code'



has been issued. As such, the present anticipatory bail is not maintainable.

Since the process under Section 82 of the Code has been issued in this case against the petitioners and in view of the decision reported in (2014) 2 SCC 171, *State of M.P. Vs. Pradeep Sharma*, the petitioners are 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 any-



*one is declared as an absconder/proclaimed of-
fender 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
petitioners are not entitled for privilege of anticipatory bail. Their
prayer for anticipatory bail is hereby rejected.

Office shall ensure that all defects are removed by the
petitioners within the stipulated time provided in para-1 hereinabove,
failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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