

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23134 of 2021**

Arising Out of PS. Case No.-432 Year-2020 Thana- HAJIPUR SADAR District- Vaishali

MURARI KUMAR @ MURARI RAI S/o Kedar Rai R/o village- Dighi
Khurd, P.S.- Hajipur Sadar, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 14219 of 2021

Arising Out of PS. Case No.-432 Year-2020 Thana- HAJIPUR SADAR District- Vaishali

BITTU KUMAR @ VINAY @ VINAY KUMAR Son of Nawal Kishore Rai
Resident of Village- Dighi Khurd, P.S.- Hajipur Sadar, District- Vaishali.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 23134 of 2021)

For the Petitioner/s : Mr. Anuj Kumar

Mr. Ravi Kant Kumar

For the Opposite Party/s : Mr. Ramchandra Singh, APP

(In CRIMINAL MISCELLANEOUS No. 14219 of 2021)

For the Petitioner/s : Mr. Anuj Kumar

For the Opposite Party/s : Ms. Pushpa Sinha 1

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

CAV ORDER

7 08-03-2022

I have already heard the parties.

The petitioners apprehend their arrest for the
offences alleged under Sections 302 and 120(B) of the Indian
Penal Code and Section 27 of the Arms Act, registered in



connection with Hajipur Sadar P.S.Case No. 432 of 2020.

The allegation, as per the FIR, is that the petitioners along with other accused persons named in the FIR, committed murder of the husband of the informant by firing shot on his person when he went for plucking flowers in the circuit house.

At the very outset, Mr. Ramchandra Singh, the learned APP has submitted that 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.

The learned counsel for the petitioners has submitted that merely because the process under Section 82 of the Code has been issued, the anticipatory bail petition cannot be dismissed on the ground of maintainability, unless the process under Section 83 of the Code is issued.

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 Laves 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 petitioners are not entitled for privilege of anticipatory bail.
Their prayer for anticipatory bail is hereby rejected.

(Nawneet Kumar Pandey , J)

HR/-

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