

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43568 of 2021**

Arising Out of PS. Case No.-275 Year-2020 Thana- GOPALPUR District- Bhagalpur

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MOUSAM KUMAR @ MOUSAM YADAV Son of Manoj Yadav Resident of
Village - Kamla Kund Babu Tola, P.S.- Gopalpur, District - Bhagalpur

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Pandey
For the Opposite Party/s : Mr.Uday Chand Prasad

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

ORAL ORDER

3 11-07-2022 Learned counsel for the petitioner is directed to

remove all the defects pointed out by the Stamp Reporter within

one month.

At the very outset, the learned APP has submitted that

the process under Section 82 of the Code of Criminal Procedure,
1973, 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 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 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 petitioner is 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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