

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59967 of 2021

Arising Out of PS. Case No.-233 Year-2021 Thana- BHABHUA District- Kaimur (Bhabua)

1. AZAHARUDDIN KHAN Son of Garuque Khan Resident of Village- Kunj, P.S.- Bhabua, District- Kaimur at Bhabua.
2. SAIF KHAN S/o- FARUQUE KHAN Resident of Village- Kunj, P.S.- Bhabua, District- Kaimur at Bhabua.
3. FERDIN KHAN @ FARDIN KHAN S/o- FARUQUE KHAN Resident of Village- Kunj, P.S.- Bhabua, District- Kaimur at Bhabua.
4. SHOEB KHAN @ SHUHAIB KHAN @ SHEHIB KHAN S/o- FARUQUE KHAN Resident of Village- Kunj, P.S.- Bhabua, District- Kaimur at Bhabua.
5. SADDAM KHAN @ SADAM KHAN S/o- FARUQUE KHAN Resident of Village- Kunj, P.S.- Bhabua, District- Kaimur at Bhabua.
6. FAISAL KHAN S/o- FARUQUE KHAN Resident of Village- Kunj, P.S.- Bhabua, District- Kaimur at Bhabua.
7. IMRAN KHAN @ MONU S/o- FARUQUE KHAN Resident of Village- Kunj, P.S.- Bhabua, District- Kaimur at Bhabua.

... .. Petitioners

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Rajani Kant Pandey, Adv.
For the Opposite Party/s : Mr. J. N. Thakur, APP

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

ORAL ORDER

3 13-07-2022 Learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Learned counsel for the petitioners has submitted that injuries are simple and there is case and counter case. He has submitted further that some scuffle took place between the parties during a cricket match.

On the other hand, learned Addl.P.P., Mr. J.N. Thakur



has submitted that paragraph No. 140 of the case diary shows that process under Section 82 of the Code of Criminal Procedure, 1973, hereinafter to be referred to as 'the Code' has been served. 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 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.

If the petitioners surrender before the court below and file regular bail petition, it shall be disposed of on its own merit without being prejudiced by this order.

Office shall ensure that all the defects are removed by the petitioners 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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