

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8061 of 2021

Arising Out of PS. Case No.-85 Year-2020 Thana- BIRPUR District- Supaul

JAGDISH KORGIYA S/o Late Sitaram Korgiya R/o Village- Bauraha, Ward
No. 07, P.S.- Birpur, District- Supaul

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Md. Jubair Ansari
For the Opposite Party/s : Mr.A.G.

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

CAV ORDER

3 12-01-2022 Heard the learned counsels for the parties.

The petitioner apprehends his arrest for the offences alleged under Sections 341, 342, 307, 302, 120(B), 379 and 34 of the Indian Penal Code and Section 27 of the Arms Act, registered in connection with Birpur P.S.Case No. 85 of 2020.

The informant Parita Devi lodged the present FIR, stating therein that, as usual, her husband was returning from his go-down to his house along with his nephew Pradeep Kumar Yadav. As they reached near *Barh Sthal*, the present petitioner along with FIR named accused persons were already in ambush. The allegation against the petitioner is that he opened indiscriminate firing on the person of the informant's husband



and co-accused Kundan Kumar assaulted on the head of Pradeep Kumar Yadav, the nephew of the informant. Co-accused Manish Yadav fired shot at the chest of Pradeep Kumar Yadav, causing his death.

Learned counsel for the informant has submitted that the process under Section 82 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 Lavesha 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 to grant of privilege of anticipatory bail. His prayer for anticipatory bail is hereby rejected.

(Nawneet Kumar Pandey, J)

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