

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28828 of 2023

Arising Out of PS. Case No.-551 Year-2022 Thana- BAGHA District- West Champaran

MANIL KUMAR SAHNI @ MANIL KUMAR SON OF CHHOTAY LAL
SAHNI RESIDENT OF VILLAGE - ANAND NAGAR, P.S. - BAGHA,
DISTT. - WEST CHAMPARAN

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravi Kumar

For the Opposite Party/s : Mr.Ram Sumiran Rai

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

ORAL ORDER

4 02-08-2024 Heard learned counsel for the petitioner as well as the
learned APP for the State.

2. The petitioner apprehends his arrest in connection with
Bagaha P.S. Case No. 551 of 2022, registered for the offences
punishable under Sections 304(B), 34 of the Indian Penal Code.

3. At the very outset, the learned APP has submitted that
it appears that the process under Section 82 & 83 of the Cr. P.C. has
been executed and in view of the recent decision in the case of *Prem
Shankar Prasad vs. State of Bihar and Another (2021 SCC online SC
955)*, this application is not maintainable.

4. Taking the aid of the orders dated 16-01-2019, 15-12-
2021 & 04-07-2022 passed by co-ordinate benches of this Court in
Cr. Misc. Nos. 75288 of 2018, 1118 of 2021 & 38750 of 2021
respectively, it has been submitted by learned counsel for the
petitioner that since the application under Section 438 of the Cr.P.C.



has already been filed before issuance of processes under Sections-82 & 83 of the Cr.P.C., the present application is maintainable.

5. Having taken into consideration the view taken by the coordinate benches of this court, I differed with the same and passed an order dated 14-12-2022 in Cr. Misc. No. 31565 of 2022 dealing with the aforesaid orders. Relevant part of the order dated 14-12-2022 passed by this court in Cr. Misc. No. 31565 of 2022 is extracted hereinbelow:

“As already mentioned, it has been argued on behalf of the petitioner that anticipatory bail petition was filed before issuance of process under section 82 of the ‘Code’. In this respect, my humble view is that the decisions of the Hon’ble Supreme Court in the case of *Lavesh v. State (NCT of Delhi)* (*supra*) and in the case of *Prem Shankar Prasad vs. the State of Bihar and another* (*supra*) does not make any distinction whether anticipatory bail petition is filed before or after passing of order under section 82 of the ‘Code’. Merely because the petitioner has preferred anticipatory bail petition prior to order passed under section 82 of ‘the Code’, it does not *ipso facto* make him entitle to the privileges for anticipatory bail”.

6. Considering the aforementioned facts and circumstances as well as the decisions as-referred-above, I am not inclined to grant the privilege of anticipatory bail to the petitioner,



which is hereby, rejected.

7. If the petitioner surrenders and seeks regular bail before the court below, his bail application shall be considered on its own merit, without being prejudiced by this order.

(Nawneet Kumar Pandey, J)

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