

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.58965 of 2023**

Arising Out of PS. Case No.-61 Year-2020 Thana- RAHIKA District- Madhubani

NOOR MOHAMMAD S/O ABDUL JALIL R/O VILLAGE- SUGAUNA,  
BASAULI, P.S- RAHIKA, DISTT.- MADHUBANI.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Ravindra Kumar Singh

For the Opposite Party/s : Mr.Yogendra Kumar

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

ORAL ORDER

6      29-02-2024                      Learned counsel for the petitioner is directed to remove  
all the defects pointed out by the Stamp Reporter within one month.

2. The petitioner apprehends his arrest in connection  
with Rahika P.S.Case No. 61 of 2020 registered for the offences  
under Sections 307, 147, 148, 149, 324, 325, 326, 380, 341, 342, 504  
& 506 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)**

A.K.V.//-

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