

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21173 of 2025

Arising Out of PS. Case No.-98 Year-2023 Thana- BARH District- Patna

Karnvir Singh Yadav @ Lallu Mukhiya Son of Late Ramvilash Prasad
Resident of Village - Gulab Bag, P.S.- Barh, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ansul, Sr. Advocate Mr. Arun Kumar, Adv.
For the Opposite Party/s	:	Mr. Ajay Mishra, APP
For the Informant	:	Mr. Raghav Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

8 05-08-2025 Heard learned counsel for the petitioner and learned counsel for the Informant as well as learned A.P.P for the State.

2. The petitioner is apprehending his arrest in a case in connection with Barh P.S. Case No. 98 of 2023 dated 10.02.2023 registered for the offences punishable u/ss 302 and 120B read with section 34 of the Indian Penal Code and section 27 of the Arms Act.

3. As per the prosecution case, when the informant along with his father and his sister was returning from the examination centre, in the meantime, the co-accused persons stopped the motorcycle of the informant and one Arun Yadav dashed the motorcycle of the informant. It is further alleged that



one of the co-accused persons, namely, Nageshwar Prasad Bald, is the grandfather of the informant and on his exhortation, the co-accused Bablu Yadav shot the informant's father dead and the co-accused Sanjay Yadav also fired on the informant but anyhow he escaped, thereafter all the accused fled away from there.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner is not named in the FIR. The name of the petitioner has sprung up during the course of the investigation. No incriminating material has been recovered from the conscious possession of the petitioner. It is further submitted that there is no evidence either direct or indirect or circumstantial evidence against the petitioner to connect his complicity in the alleged crime and as such no case under section 302 of the IPC is made out against the petitioner. It is apparent that the informant himself is the eyewitness to the alleged occurrence and made allegation of firing on his father is against the co-accused Bablu Yadav and the informant also identified all the accused who were present at the place of occurrence. It is further submitted that the informant has also filed two protest petitions before the learned court below



concerned and in both the protest petitions, the informant has not made any allegation against the petitioner. The statements of the informant and his sister were also recorded during the course of the investigation but they have not taken the name of the petitioner and has not raised any suspicion against the petitioner in the alleged crime. The petitioner is a social worker and is involved in political activities and has earned a great reputation in the locality due to that the political rivals are making conspiracy for implicating him. The name of the petitioner did not sprung up during the course of the investigation either in the statement of witnesses or in the confessional statement of accused persons but all of a sudden without any rhyme or reason and without any materials collected during the course of the investigation, police, in a hypothetical manner, by letter dated 24.02.2025, prayed before the learned court below for issuance of warrant of arrest against the petitioner and that too at the behest of the political rivals of the Petitioner. On the aforesaid Petition of the Investigating Officer dated 24.02.2025, the learned A.C.J.M. Barh has been pleased to issue Non Bailable Warrant of arrest against the Petitioner. **The petitioner has 32 criminal antecedents and out of which he has been acquitted in 16 criminal cases as stated in para 3 of the bail petition.**



Learned counsel for the petitioner has placed the reliance on paras 8 and 9 in the case of **Asha Dubey Vs. State of M.P. (Cr. Appeal No. 4564 of 2024/SLP Cri. No. 13123 of 2024)** which are quoted hereunder:-

"8. *Coming to the consideration of anticipatory bail, in the event of declaration under Section 82 of the Cr.P.C., it is not as if in all cases that there will be a total embargo on considering the application for the grant of anticipatory bail.*

9. *When the liberty of the appellant is pitted against, this Court will have to see the circumstances of the case, nature of the offence and the background based on which such a proclamation was issued. Suffice it is to state that it is a fit case for grant of anticipatory bail, on the condition that the appellant shall cooperate with the further investigation. However, liberty is also given to the respondents to seek*



cancellation of bail that has been granted, in the event of violation of the conditions which are to be imposed by the trial court or if there are any perceived threats against the witnesses."

5. Learned counsel for the Informant as well as learned A.P.P. for the State as well as learned counsel has for informant have vehemently opposed the prayer for anticipatory bail of the petitioners. Learned counsel has further submitted that the instant anticipatory bail application is not maintainable as the process u/ss 82 of the Cr.P.C. has already been issued against the petitioners. The petitioners are declared a proclaimed offender. Learned counsel for the informant has further relied upon the case of **(Abhishek vs. State of Maharashtra (2022) 14 SCC 529)** where it was held that *"As regards the implication of proclamation having been issued against the appellant, we have no hesitation in making it clear that any person, who is declared as an 'absconder' and remains out of reach of the investigating agency and thereby stands directly at conflict with law, ordinarily, deserves no concession or indulgence."* Reliance has further been placed on the decisions of **(Lavesh vs. State (NCT**



of Delhi) (2012) 8 SCC 730, *Adri Dharan Das vs. State of W.B.* (2005) 4 SCC 303) and (*Prem Shankar Prasad vs. State of Bihar* 2021 SCC Online SCC 955) and in the case of (*State of Haryana vs. Dharamraj* (Cr. Appeal No. 2635 of 2023 @ out of SLP (Cri.) No. 2256 of 2022, reported in 2023 LiveLaw (SC) 739: 2023 INSC 784) disposed of 29.08.2023 wherein the Hon'ble Apex Court has held that: "*Anticipatory bail can be granted to a person to a proclaimed offender only in exceptional and rare case.*" It is further submitted that the materials available on the record do not reveal any exceptional or rare case due to which the plea of anticipatory bail may be considered. Learned counsel for the informant has further relied on the judgment of **Srikant Upadhyay & Ors. Vs. State of Bihar & Anr. in SLP (Crl) No. 7940 of 2023** where it was **held that** "*even after the issuance of non-bailable warrants they did not care to appear before the Trial Court and did not apply for regular bail after its recalling. It is a fact that even after coming to know about the proclamation under Section 82 Cr.P.C., they did not take any steps to challenge the same or to enter appearance before the Trial Court to avert the consequence. Such conduct of the appellants in the light of the aforesaid circumstances leaves us with no hesitation to hold*



that they are not entitled to seek the benefit of pre-arrest bail.”

6. Considering the aforesaid facts and circumstances of the case as well as the fact that the process u/ss 82 has been issued against the petitioner. Accordingly, the anticipatory bail petition is not maintainable and the same is disposed of with direction to the petitioner to surrender before the learned Court below concerned within a period of six weeks from the date of receipt of this order and pray for regular bail and the learned Court below may consider the prayer for regular bail of the petitioner in accordance with law and on its own merits without being prejudiced by this order.

7. The application stands disposed of.

(Chandra Prakash Singh, J)

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