

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24914 of 2025

Arising Out of PS. Case No.-49 Year-2024 Thana- HUSSAINGANJ District- Siwan

1. Imam Ansari @ Sugan @ Imam Hussain S/o Md. Tahir Resident Of Village- Bindwal, Ps- Hussainganj, Distt.- Siwan
2. Mohammad Ansari @ Bhuttu S/o Md. Tahir Resident Of Village- Bindwal, Ps- Hussainganj, Distt.- Siwan
3. Ahmad Raza S/o Abdul Majid Resident Of Village- Bindwal, Ps- Hussainganj, Distt.- Siwan

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Prashant Kumar
For the Opposite Party/s	:	Mr. Raj Ballabh Singh
For the Informant	:	Mr. Alok Ranjan

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 08-08-2025 Heard learned counsel for the petitioners, learned counsel for the informant and learned Additional Public Prosecutor for the State.

2. Earlier vide order dated 04.07.2025, the anticipatory bail application of the petitioner no. 3 was dismissed as withdraw.

3. The petitioner no. 1 and 2 are apprehending their arrest in connection with Hussainganj P.S Case No. 49/2024 dated 23.02.2024 registered for the offence punishable u/s 363 201, 302 and 120B read with Section 34 of the Indian Penal Code.



4. As per the prosecution case, on 22.02.2024 at about 7.30 P.M., Bullet Ansari @ Ahsanul Haque called on the informant's son's phone and asked him to come to his house. Thereafter, the informant's son went to the house of the co-accused, Bullet Ansari. At 8.00 P.M., the informant called on his son's mobile then he informed that he is at the house of the co-accused persons, Bullet Ansari and Saiyad Ansari is also present there. At 2.00 A.M., the informant again called on his son's phone but it was switch-off. It is further alleged that the informant believed that the petitioners and the co-accused persons have kidnapped his son. The reason behind the occurrence is that three days before Saiyad Ansari had threatened the informant's son to kill him. It is further alleged that when the wife of the informant went for call of nature in the night she saw in the torch light that her son was going with the co-accused persons, Bullet Ansari and Saiyad Ansari towards the east direction.

5. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. The petitioners have no criminal antecedent as stated in para 3 of the bail petition. The petitioners are not named in the F.I.R. The name of the petitioners have



sprung up in this case during the course of investigation. Learned counsel has submitted that the dead body of the deceased was recovered behind the house of the co-accused persons, Bullet Ansari and Syed Ansari. However, there is no material available on the record that shows the involvement of the petitioners in the crime alleged. Learned counsel has submitted that the said anticipatory application was filed before the process u/s 82 of the Cr.P.C. was issued against the petitioners. Learned counsel for the petitioners has submitted that in the case of **Asha Dubey Vs. State of Madhya Pradesh (Cr. Appeal No. 4564 of 2024/ SLP (CRL). No. 13123 of 2024**, the Hon'ble Supreme Court held that the issuance of process under Section 82 of the Cr.P.C is not a complete embargo to consider the application for grant of anticipatory bail. Paras- 8 & 9 of the order of Hon'ble Supreme Court are being quoted hereinbelow:-

8. Coming to the consideration of anticipatory bail, in the event of the 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 a violation of the conditions which are to be imposed by the Trial Court or if there are any perceived threats against the witnesses.

6. Learned A.P.P. for the State as well as the learned counsel for the informant have vehemently opposed the prayer of anticipatory bail of the petitioners. Earlier the regular bail of the co-accused persons have been rejected by this court vide order dated 24.03.2025 passed in Cr. Miscellaneous No. 52759 of 2024. Learned counsel has further submitted that the instant anticipatory bail application is not maintainable as the process u/s 82 of the Cr.P.C. has already been issued against the petitioners vide order dated 24.06.2025. 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."

7. Considering the aforesaid facts and circumstances of the case as well as finding substance in the contention of learned counsel for the State and the learned counsel for the informant and the fact that the process u/s 82 has been issued against the petitioners, accordingly, the anticipatory bail petition is not maintainable. Accordingly, the same is disposed of with direction to the petitioners to surrender to the Court below within a period of six weeks from the date of this order and the Court below will consider the prayer of the regular bail of the petitioners in accordance with law without being prejudice by this order.

8. The application stands disposed of.

(Chandra Prakash Singh, J)

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