

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35747 of 2025

Arising Out of PS. Case No.-320 Year-2024 Thana- AAJAM NAGAR District- Katihar

Md. Safed Alam son of Jamir Alam Resident of Village- Bairiya, P.S.-
Azamnagar, District- Katihar

... .. Petitioner/s

Versus

The State of Bihar bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shadab Akhter

For the Opposite Party/s : Mr.Vinod Shanker Modi

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 22-08-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Azamnagar P.S Case No. 320/2024 dated 30.08.2024 registered for the offence punishable u/s 85, 80, 123 read with Section 3(5) of the B.N.S. and Section 3 and 4 of the D.P. Act.

3. As per the prosecution case, the petitioner and the co-accused persons are alleged to have killed the daughter of the informant due to non-fulfillment of demand of dowry.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. There is general and omnibus allegation against the



petitioner who is husband of the deceased. The petitioner neither demanded any dowry nor tortured the deceased. It is submitted that the deceased was not subjected to torture and cruelty soon before her death for or in connection with demand of dowry. The petitioner has no criminal antecedent as stated in para 3 of the bail petition.

5. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioner by submitting that the petitioner is the husband of the deceased. Learned counsel has further submitted that the instant anticipatory bail application is not maintainable as the process u/s 84 and 85 of the B.N.S.S have already been issued against the petitioner. The petitioner is declared a proclaimed offender. Learned counsel 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 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 fact that the process u/s 84 and 85 of the B.N.S.S have been issued against the petitioner, accordingly, the anticipatory bail petition is not maintainable. Accordingly, the same is disposed of with direction to the petitioner to surrender to the Court below within a period of six weeks from the date of this order.

8. The application stands disposed of.

(Chandra Prakash Singh, J)

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