

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37089 of 2025

Arising Out of PS. Case No.-1790 Year-2017 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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Diggaj Kumar son of Balram sah VILLAGE-INDRAPURI KAUDIHAR
CHOK, RAXAUL PS-RAXAUL, DISTRICT-EAST CHAMPARAN,
MOTIHARI

.. ... Petitioner/s

Versus

1. The State of Bihar
2. Ram Ekbal Mahto Son of Late Bahadur Mahato Village- Derwa Mathiya,
Ps- Keshariya, Dist- East champaran

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Adv.

For the Opposite Party/s : Mr. Uma Shankar Prasad Singh, APP

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

ORAL ORDER

2 02-07-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case in
connection with Complaint Case No. C-1790 of 2017 registered
for the offences punishable under Sections 323, 420 read with
Section 34 of the Indian Penal Code.

3. As per the prosecution case, the petitioner and the
co-accused persons are alleged to have cheated the complainant
and others and grabbed Rs. 4,89,187/- of public. It is further
alleged that the accused persons had assaulted the complainant
and threatened him of dire consequences.

4. Learned counsel for the petitioner has submitted



that the petitioner is innocent and has falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioner. It is further submitted that there is no any specific allegation against the petitioner rather the co-accused, Birendra Yadav had taken the amount of Rs. 2,67,687/- from the complainant. It is further submitted that the alleged N.G.O. Meera Shukla Kendra is a resistered NGO with the Government of India and the said N.G.O. Kendra started, but in the meantime, the Government of India has cancelled the scheme due to which the whole training programs have been closed as per the order of Government of India. It is further submitted that the petitioner has no concern with the alleged N.G.O. and he is working and residing at Madhya Pradesh along with his family members since long. The occurrence took place on 21.09.2015 but the complaint case was filed on 23.08.2017 i.e. the delay of two days and there is no explanation for this delay. The petitioner has no criminal antecedent as stated at 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 and submitted that the instant anticipatory bail application is not maintainable as the processes u/ss 82 and 83 of the Cr.P.C. have already been issued against the petitioner. The petitioner is



declared a proclaimed offender. Learned APP for the State 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 finding substance in the contention of learned counsel for the State and the fact that the processes u/s 82 and 83 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 and the Court below will consider the prayer of the bail of the petitioner in accordance with law without being prejudice by this order.

7. The application stands disposed of.

(Chandra Prakash Singh, J)

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