

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58069 of 2024

Arising Out of PS. Case No.-234 Year-2011 Thana- GOVERNMENT OFFICIAL COMP.
District- Madhubani

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Mohan Mandal @ Mohan Chuapal S/o Late Dukhi Mandal R/o vill - Bakuar,
P.S. - Rajnagar, Distt. - Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ashad, Adv.

For the Opposite Party/s : Mr.Mritunjay Kumar Nirala, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

8 04-04-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with G.O. No. 234 of 2011 registered for the offence punishable u/s 47(a) of the Bihar Excise and Prohibition Act.

3. As per the prosecution case, total 210 litres of spirit was recovered from the house of the petitioner.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. Nothing has been recovered from the conscious possession of the petitioner. The petitioner has no concern with the alleged recovery. Learned counsel has further



submitted that the anticipatory bail application is maintainable despite the issuance of the process u/s 82 of the Cr.P.C.

5. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioner. 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 petitioner vide Letter No. 4250/2024 dated 20.12.2024 (which is kept on the record). 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.

6. Considering the aforesaid facts and circumstances of the case as well as the fact that the process u/s 82 has 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 before the Court below within a period of six weeks from the date of this order and pray for the regular bail. The Court below shall consider the prayer for regular bail of the petitioner on the same day without being prejudiced by this order.

(Chandra Prakash Singh, J)

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