

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70652 of 2024

Arising Out of PS. Case No.-174 Year-2024 Thana- SANGRAMPUR District- East Champaran

-
1. Akhilesh Thakur S/O Late Lalan Thakur R/O Village- Sangarampur Mathiya, P.S- Sangarampur, Distt.- East Champaran (Bihar).
 2. Surendra Thakur S/O Late Lalan Thakur R/O Village- Sangarampur Mathiya, P.S- Sangarampur, Distt.- East Champaran (Bihar).
 3. Sonu Thakur S/O Late Lalan Thakur R/O Village- Sangarampur Mathiya, P.S- Sangarampur, Distt.- East Champaran (Bihar).
 4. Naulesh Thakur S/O Late Lalan Thakur R/O Village- Sangarampur Mathiya, P.S- Sangarampur, Distt.- East Champaran (Bihar).
 5. Umrawati Devi W/O Late Lalan Thakur R/O Village- Sangarampur Mathiya, P.S- Sangarampur, Distt.- East Champaran (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Arvind Kumar
For the APP	:	Mr.Shyam Bihari Singh
For the Informant	:	Mr. Madhurendra Kumar

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

CAV ORDER

6 27-08-2025 I have already heard the learned counsel for the parties.

2. This is an application for regular bail on behalf of the petitioners for the offences alleged under Sections 126(2), 115(2), 118(1), 117(2), 109, 329(3), 352 3(5) and Section 101 being added subsequently of the BNSS, 2023, registered in connection with Sangrampur P.S.Case No. 174 of 2024.

3. According to prosecution case, the petitioners



came to the door of the informant and they started abusing her. When she prohibited, the accused-petitioner no.4, whose application for bail earlier stood dismissed as withdrawn, assaulted her with *lathi*. When her *Dewar* Baliram Thakur came to her rescue, the petitioner Naulesh Thakur assaulted him with a spade, causing him injury on his head, due to which he fell on the ground and the petitioner no.1 and 2 Akhilesh Thakur and Surendra Thakur started kicking the victim (Baliram Thakur). Petitioner no.3, Sonu Thakur, assaulted the informant's husband Laxman Thakur with *farsa* on his back who suffered cut injury. Sonu Thakur also assaulted with *lathi* on the daughter of the informant's *dewar* namely Sapna Kumari, causing her fracture injury on her right hand. The petitioner no.5 Umrawati Devi assaulted Priti Kumari, another daughter of the informant's *dewar* with an axe, who suffered cut injury on her finger. The injured were brought to the Government Hospital, Sangrampur. Subsequently, the *dewar* of the informant and his daughter Sapna Kumari, in serious condition, were referred to Sadar Hospital Motihari for better treatment. Thereafter, Baliram Thakur died in Muzaffarpur in course of treatment.

4. The learned counsel for the informant as well as the learned APP for the State at the very outset have submitted that



the processes under Sections 82 and 83 of the CrPC have already been issued against the petitioners, as such they are not entitled for the privilege of bail.

5. On the other hand, the learned counsel for the petitioners, referring to a decision of Hon'ble the Supreme Court in ***Criminal Appeal No. 4564 of 2024 (Asha Dubey vs The State of Madhya Pradesh)***, has submitted that merely because the processes under Sections 82 and 83 have been issued, there is no total embargo on grant of anticipatory bail to the accused persons Para-8 of the said decision is being extracted 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.”

6. The Hon'ble Supreme Court in case of ***Prem Shankar Prasad Vs. The State of Bihar and another, reported in AIR 2021 SC 5125***, after relying upon the case of ***Lavesh vs. State (NCT of Delhi) [(2012) 8 SCC 730]*** has been pleased to hold that if anyone is declared as an absconder in terms of Section 82 of the Code of Criminal Procedure, he is not entitled



to the relief of anticipatory bail. Relevant para 7.3 of that decision is being extracted hereinbelow:-

“16. Recently, in Lavesch v. State (NCT of Delhi) [(2012) 8SCC 730], this Court (of which both of us were parties) considered the scope of granting relief under Section 438 vis-a-vis a person who was declared as an absconder or proclaimed offender in terms of Section 82 of the Code. In para 12, this Court held as under : (SCC p.733)

“12. From these materials and information, it is clear that the present appellant was not available for interrogation and investigation and declared as “absconder”. Normally, when the accused is “absconding” and declared as a ‘proclaimed offender’, there is no question of granting anticipatory bail. We reiterate that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 82 of the Code is not entitled to the relief of anticipatory bail.

It is clear from the above decision that if anyone is declared as an absconder/proclaimed offender in terms of



section 82 of the Code, he is not entitled to the relief of anticipatory bail.”

7. From bare perusal of this portion of the judgment of the Hon’ble Supreme Court, it becomes clear that if the petitioner has been declared an absconder in terms of Section 82 of the Code, he is not entitled for anticipatory bail.

8. From perusal of the case diary it appears that the investigation against other accused persons was concluded and because the petitioners are absconder, their case was separated and supplementary investigation is still continuing.

9. In my view, the petitioners are not entitled for the privilege of anticipatory bail, which is hereby rejected.

(Nawneet Kumar Pandey, J)

HR/-

U		T	
---	--	---	--

