

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26160 of 2025

Arising Out of PS. Case No.-182 Year-2021 Thana- BAIKUNTHPUR District- Gopalganj

Arvind Prasad @ Arbind Kumar S/O Manshi Prasad @ Munshi Prasad R/O
Village- Bistaul (Bishtol), P.S- Baikunthpur, Distt.- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prasoon Shekhar, Adv.

Mr. Satyendra Rai, Adv.

For the Opposite Party/s : Mr. Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 06-05-2025 Heard the learned Advocate for the petitioner and the
learned APP for the State.

2. The petitioner apprehends his arrest in connection with Baikunthpur P.S. Case No. 182 of 2021, registered for the offences punishable under Sections 341, 323, 354, 504, 506 and 307/34 of the Indian Penal Code.

3. This is the second attempt made on behalf of the petitioner, as earlier the petitioner had approached this Court in Cr. Misc. No. 53533 of 2021 for grant of anticipatory bail, which came to be dismissed as withdrawn vide order dated 17.05.2022, as the petitioner sought permission to withdraw the same. While passing the order, the learned Court has observed that if the petitioner surrender and pray for regular bail, the



same shall be considered on its own merit without being prejudiced by this order of rejection.

4. It is the admitted position that despite the rejection of prayer for bail of the petitioner long back on 17.05.2022, he did not surrender till date and after about two years and eleven months, he again moved the present application for grant of anticipatory bail.

5. Learned Advocate for the petitioner referring to the order passed by the High Court of Punjab and Haryana at Chandigarh in the case of *Bhisham Singh Vs. State of Haryana, 2024 SCC Online P&H 14699* has contended that the learned Single Judge having taken note of various decisions rendered by the Apex Court as well as different High Courts have clearly opined that the second anticipatory bail, irrespective of the fact that the first has been withdrawn, is maintainable, in view of the substantial change in circumstances. Drawing the attention of this Court to the allegation levelled in the FIR and the deposition of the injured witness, namely, Santosh Prasad, it is submitted that the entire prosecution case falls to the ground for the simple reason that the injured witness has not supported the prosecution case and, as such, the prosecution case does not inspire confidence.



6. Further submission has been made that if the petitioner shall not be allowed the privilege of anticipatory bail, injustice would be cause to him, as the materials which have collected subsequently, *prima facie*, tends to suggest the innocence of the petitioner.

7. On the other hand, learned counsel for the State opposed the pre-arrest bail application and submits that apart from the admitted position that the petitioner himself withdrew the bail application, it is also the fact that the petitioner has been evading his arrest for the last 3 years. In the meantime, the learned trial Court by splitting the case, has commenced the trial in connection with other accused persons and thereby, delay has also occurred on account of the conduct of the petitioner.

8. Having heard the learned Advocate for the respective parties and taking note of the submissions made on behalf of the parties, there is no iota of confusion that the second/subsequent anticipatory bail application is maintainable, in view of the substantial change in the facts and circumstances of the case due to subsequent events. However, in the case in hand, admittedly the application has been withdrawn by the petitioner and thereafter, he was evading his arrest for about 3 years, causing delay in trial. All the more, the allegation against



the petitioner is of causing “Dab” blow over the head of the informant Santosh Kumar stood substantiated from the injury report, who sustained three injuries over his head and all of them found to be grievous in nature, the copy of which is marked as Annexure-2 series. It is pertinent to observe that the injured witness has also taken the name of petitioner and if there is some discrepancy in one of the witness, the accused who is not facing the trial, the same cannot lead to his exoneration.

9. In view of the aforesaid facts, this Court is not inclined to accede the prayer for anticipatory bail. However, taking note of the further submission of the petitioner that till date, no process has been issued against the petitioner, this Court directs the Senior Superintendent of Police, Gopalganj as well as the jurisdictional Court to look into the matter and execute the process, if any, issued against the petitioner, preferably within a period of 15 days.

10. The anticipatory bail application stands dismissed.

11. Let this order be communicated to concerned Superintendent of Police and the trial Court.

(Harish Kumar, J)

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