

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38186 of 2025

Arising Out of PS. Case No.-399 Year-2024 Thana- AAJAM NAGAR District- Katihar

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Gholam Nabi @ Md. Gholam Nabi @ Md. Gulam Nabi S/o Anwarul Hassan
@ Md. Anwarul Hassan R/o Village- Pachkonia, P.S.- Azam Nagar, District-
Katihar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Arsadi Khatoon D/o Late Anwarul Haque Resident of Kanharia, Ward No. 6,
Alampur Panchayat, P.S.- Azam Nagar, District- Katihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh
For the Opposite Party/s : Mr. Amitesh Kumar

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 21-08-2025 1. Heard learned counsel for the petitioner and learned
A.P.P. for the State along with learned counsel appearing on
behalf of the O.P. No.2.

2. The learned APP at the outset submits that the
offences for which the instant F.I.R. has been instituted against
the petitioner carries punishment of 7 years and less. It is further
submitted that law is well settled that in cases involving
punishment of 7 years and less, the arrest is not automatic rather
the police has to resort to a procedure, as envisaged under
B.N.S.S. i.e. a notice under Section 35 B.N.S.S. is given to the
accused. It is also submitted that once notice is given under
Section 35 B.N.S.S., in that event, an apprehension of arrest



may arise but then the same will always be subject to the facts of the case. The learned APP next submits that if after giving notice under Section 35 B.N.S.S., the police intends to arrest an accused, in that event also, the arrest cannot be automatic/mechanical rather permission of the Magistrate is required. It is further submitted that from perusal of the pleadings made in the instant anticipatory bail application, it would manifest that the same does not even remotely suggest that when no notice under Section 35 B.N.S.S. has been issued to the petitioner, then on what basis the petitioner is apprehending arrest.

3. The learned counsel appearing on behalf of the petitioner and the O.P. No.2 are not in a position to rebut the submission of the learned APP and thus seeks permission to withdraw the anticipatory bail application with liberty to file afresh, if need arises.

4. Permission is accorded.

5. The anticipatory bail application is dismissed as withdrawn with aforesaid liberty.

(Satyavrat Verma, J)

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