

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41879 of 2025

Arising Out of PS. Case No.-44 Year-2025 Thana- BAUNSI District- Banka

Ashish Kumar @ Abhishek Kumar S/o Doro Yadav R/o Village- Kushamaha,
Police Station- Bounsi, District- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 42100 of 2025

Arising Out of PS. Case No.-44 Year-2025 Thana- BAUNSI District- Banka

1. Prabhash Yadav Son of Late Kailu Yadav Resident of Village- Kushamaha,
Police Station -Bounsi, District- Banka
2. Mrityunjay Kumar @ Mritunjay Kr. Yadav Son of Ashok Yadav Resident of
Village- Madhopur, P.S.- Bandhua Kurawa, Distt.- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 41879 of 2025)

For the Petitioner/s : Mr.Ajay Mukherjee, Adv.

For the Opposite Party/s : Mrs.Sharda Kumari, APP

(In CRIMINAL MISCELLANEOUS No. 42100 of 2025)

For the Petitioner/s : Mr.Ajay Mukherjee, Adv.

For the Opposite Party/s : Mrs.Sharda Kumari, APP

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR

ORAL ORDER

3 10-09-2025 Since both the aforesaid anticipatory bail applications arise out of the same PS Case bearing Bounsi PS Case No. 44 of 2025, they are being heard and disposed of together by a common order.

2. At the very outset, learned counsel for the petitioner very fairly submits that he does not want to press the



anticipatory bail application of petitioner no.1, namely, Prabhash Yadav (Cr. Misc. No. 42100 of 2025), he therefore, seeks permission to withdraw the anticipatory bail application filed on his behalf because of the fact that he has got five criminal antecedents out of which three are similar in nature including the present one registered under Sections 379/411 of the IPC related with illegal mining of sand and its theft.

3. Permission is granted.

4. The anticipatory bail application filed on behalf of petitioner no.1, namely, Prabhash Yadav (Cr. Misc. No. 42100 of 2025) is dismissed as not pressed.

5. Petitioners, namely, Ashish Kumar @ Abhishek Kumar (Cr. Misc. No. 41879 of 2025) and Mrityunjay Kumar @ Mritunjay Kr. Yadav (Cr. Misc. No. 42100 of 2025) are apprehending their arrest in connection with Bounsi P.S. Case No. 44 of 2025 registered for the offence under sections 303(2) (379 IPC) and 317(2) (411 IPC) of the BNS lodged on 16.02.2025 by the informant.

6. Prosecution case as per FIR which is common in both the cases, is that on 16.02.2025, on secret information, the informant along with other police personnel tried to intercept these petitioners and others, who were coming towards C.M. College loaded with illegal sand on tractor. The accused



persons, on seeing the police personnel, managed to escape leaving the said trailer loaded with sand on spot. It is also alleged that no one came forward to produce the *challan* of the loaded sand on the aforesaid vehicles. Thereafter, the informant seized the said trailer loaded with Sand. During course of investigation, it came to the knowledge of the informant that the petitioners and others were responsible for the alleged mining of sand and accordingly, the FIR.

7. Learned counsel for the petitioners submits that the petitioners have falsely been implicated in this case only on the basis of suspicion and they have not committed any offence as alleged in the FIR. Neither the seized trailer nor the sand loaded on it belongs to the petitioners and nothing incriminating has been recovered from their premises on search made by the police. It has next been submitted that not even a single independent witness has come forward to support the case of the prosecution except the police personnel themselves, who are said to be seizure list witnesses. It has also been submitted that petitioner, Mrityunjay Kumar @ Mritunjay Kr. Yadav (Cr. Misc. No. 42100 of 2025) has got two criminal antecedents in which, he is on bail while petitioner, namely, Ashish Kumar @ Abhishek Kumar (Cr. Misc. No. 41879 of 2025) has got one



criminal antecedent in which, he is on bail. Lastly, it has been submitted that the prosecution has not been able to bring on record any cogent material save and except the statement of the police personnel who are said to be seizure list witnesses.

8. On the other hand, learned APP vehemently opposed the prayer of the petitioners for anticipatory bail submitting that both the petitioners have got criminal antecedent and they seem to be habitual offender, therefore, they do not deserve the privilege of anticipatory bail.

9. Considering the submissions advanced on behalf of the parties and the fact that neither the seized trailer nor the sand loaded on it belongs to the petitioners and nothing incriminating has been recovered from their premises on search, the prosecution has not been able to bring on record any cogent material to connect these petitioners with the offence, though they have criminal antecedents but in which they are on bail and the cases pending against them do not relate with the mining of sand and theft of sand as alleged in the FIR, this Court is inclined to grant them privilege of anticipatory bail.

10. Let both these petitioners, naemely Ashish Kumar @ Abhishek Kumar (Cr. Misc. No. 41879 of 2025) and Mrityunjay Kumar @ Mritunjay Kr. Yadav (Cr. Misc. No.



42100 of 2025), be released on bail, in the event of arrest or surrender within a period of four weeks, from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of Chief Judicial Magistrate, Banka in connection with aforesaid PS Case, subject to the conditions as laid down under Section 438(2) of the Cr.P.C/Section 482(2) of the BNSS as well as the following conditions:-

(i) one of the bailors should be the family member/relative of the petitioners who shall provide official document to show his/her bona fide;

(ii) the petitioners shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(iv) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

(Ajit Kumar, J)

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