

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41094 of 2025

Arising Out of PS. Case No.-163 Year-2024 Thana- KHUTAUNA District- Madhubani

PUSHPAK KUMAR @ PUSHPAK KUMAR YADAV S/o Ashok Kumar
Yadav Resident of Village- Mahadeva, Police Station- Phulparas, District-
Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sonali Kumar D/o Sri Ram Narayan Yadav R/o vill - Tengrar, Post - Tengrar,
P.S. - Khutauna, Distt.- Madhubani

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Nilendu Kumar Choudhary, Advocate
For the O.P. No. 2	:	Mr. Anurag Saurav, Advocate
For the State	:	Mr. Raj Ballabh Singh, APP

CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

3 07-07-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest in a case registered for the offence punishable under sections 126(2), 115(2) and 3(5) of the Indian Penal Code and Section 8/12 of the POCSO Act.

3. As per the prosecution case, it is alleged by the victim/informant that while she went outside to attend natural call, she saw that one Jibachh Yadav and one unknown boy were standing in front of her house and later they forcefully made her sit on the motorcycle after closing her mouth and went to the Balan River, where 6-7 persons were already sitting and they



started to outrage her modesty. When she opposed them, they assaulted her. Meanwhile, one Arvind Kumar Yadav informed her uncle, namely Ram Naresh Yadav, on his mobile phone. She has further stated that the said Arvind Kumar Yadav knew all the persons. The victim/informant further alleged that one Somnath, Ayush Kumar, Mukesh Kumar, Mithilesh Kumar and 2-3 unknown boys tried to take her somewhere, then her uncles, namely Ramnaresh Yadav and Satyanarayan Yadav, reached there. She has also alleged that Jibachh Yadav took out the pistol and threatened them and thereafter all of them fled away.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case due to dirty village politics. It has further been submitted that the petitioner is not named in the F.I.R., but he has been dragged into the case upon the statement of the mother of the victim/informant, who deliberately took the name of the present petitioner due to previous enmity. The mother of the informant has also stated that she came to know about the friendship of the petitioner with her daughter, as both were friends on Instagram. The statement of the mother of the informant is the reason for which the present petitioner has been implicated in the present case and the statement itself says that



after the passing of some days, though no date has been given, the informant communicated to her mother that the petitioner was there on the motorcycle. His name has been deliberately dragged into the present case as an afterthought to settle personal scores. Learned counsel has next submitted that the informant has also given a statement under section 183 of B.N.S.S. and in the said statement, she did not utter a single word about the present petitioner, but she took the names of Jibachh, Ayush, Mukesh, Bulbul and Mithilesh. Actually there was a friendship between the petitioner and the informant, due to which they were on talking terms, which was not liked by the parents of the informant and hence the false implication. During the investigation, the police collected CDR and found the tower location of the present petitioner in his village, i.e., Mahadeva village and also on the way to village Tengarrar. So far as the present prosecution story is concerned, the date of occurrence has been stated as 14.11.2024 however the F.I.R. was lodged on 18.11.2024 without giving any reason for such a long delay. Lastly, it has been submitted that the petitioner has one criminal antecedent in which he is on bail.

5. Learned counsel for the informant and learned APP appearing for the State opposed the prayer for regular bail of the



petitioner. Learned counsel for the informant has submitted that during her statement under Section 180 of the BNS, the mother of the victim stated that a few days after the case was registered, the victim, in fear, stated that on the fateful night, the victim's friend, the petitioner Pushpak Kumar Yadav, came on a motorcycle and called her out of the house over the phone to meet him; then the victim left the house alone and as soon as she left the house, her friend, this petitioner Pushpak Kumar Yadav, came with his partner, co-accused Saurabh Kumar and forcibly gagged her and made the victim sit on the motorcycle and took her to the dam and both of them started molesting the victim. In view of such serious allegations the petitioner does not deserve grant of Anticipatory bail.

6. The learned counsel for the informant has lastly submitted that as the process u/s 82 Cr.P.C has been initiated against the petitioner, in view of the judicial pronouncement in Srikant Upadhyay's case (2024 SCC Online SC 282) application for anticipatory bail is not maintainable and the bail application is fit to be dismissed on this point alone.

7. On the point of maintainability, the learned counsel for the petitioner refers to an order dated 12.11.2024 passed in Cr. Appeal No. 4564 of 2024 arising from SLP (CRL.) No.



13123/2024 wherein the Hon'ble Supreme Court in Para-8 has observed thus -

“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.”

8. It has thus been submitted that in view of the aforesaid observation, this application is maintainable as this was a case where the so called victim has not even named the petitioner earlier.

9. Considering the aforesaid submissions, I think it to be a fit case for grant of anticipatory bail, on the condition that the petitioner shall cooperate with the further investigation.

10. Thus, in the event of arrest/surrender within a period of six weeks from today, let the petitioner above named, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Court below/ concerned Court in connection with Khutauna P.S. Case No. 163 of 2024 subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.



(i) One of the bailors of the petitioner shall be his close relative.

(ii) The petitioner shall remain physically present in Court on each date of the trial.

(iii) In case of absence on two consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(iv) The learned Court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedents, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

11. It is made clear that the observations, if any, made in this order, shall be of no bearing during the trial.

(Sourendra Pandey, J)

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