

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51819 of 2025

Arising Out of PS. Case No.-301 Year-2023 Thana- CHAKIA District- East Champaran

Dewa Gupta S/O Hari Kishore Gupta R/O Mohalla-Ward No. 18, Barhai Tola,
PS- Chhatuni, District- East Champaran(Motihari).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Advocate

For the Opposite Party/s : Mr. Raj Kishor Singh, APP

**CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA**

ORAL ORDER

3 07-11-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. This is the second prayer for anticipatory bail of the petitioner. Earlier the anticipatory bail for the petitioner was rejected by this Court vide order dated 27.09.2024 in Cr. Misc. No. 63537 of 2024.

3. After the query on the maintainability of the second anticipatory bail petition, learned counsel for the petitioner relied upon the judgement of Hon'ble Apex Court in the case of *Ravindra Saxena v. State of Rajasthan* in *Cr. Appeal No. 2406 of 2009* it held as follows:

*6. In view of the above, the appellant moved
the third application for anticipatory bail.
This has again been dismissed by the High*



Court with the following observations:

“In the facts and circumstances, therefore, the case of the petitioner cannot said to have improved with the filing of the challan against him when prima facie case has been found against the accused petitioner.”

“7. We are of the considered opinion that the approach adopted by the High Court is wholly erroneous. The application for anticipatory bail has been rejected without considering the case of the appellant solely on the ground that the challan has now been presented.”

“9. In our opinion, the High Court committed a serious error of law in not applying its mind to the facts and circumstances of this case. The High Court is required to exercise its discretion upon examination of the facts and circumstances and to grant anticipatory bail "if it thinks fit". The aforesaid expression has been explained by this Court in Gurbaksh Singh's case (supra) as follows:

"The expression "if it thinks fit", which occurs in Section 438(1) in relation to the power of the High Court or the Court of Session, is conspicuously absent in Section 437(1). We see no valid reason for rewriting Section 438 with a view, not to expanding



the scope and ambit of the discretion conferred on the High Court and the Court of Session but, for the purpose of limiting it. Accordingly, we are unable to endorse the view of the High Court that anticipatory bail cannot be granted in respect of offences like criminal breach of trust for the mere reason that the punishment provided therefor is imprisonment for life. Circumstances may broadly justify the grant of bail in such cases too, though of course, the court is free to refuse anticipatory bail in any case if there is material before it justifying such refusal.”

4. Thus, on the basis of the above judgement, it is well established that the present anticipatory bail is maintainable.

5. The petitioner apprehends his arrest in connection with Chakiya P.S Case No. 301 of 2023 registered for the offences punishable under Sections 302 and 120B of Indian Penal Code and 27 of the Arms Act.

6. As per the prosecution case, the informant along with his son had gone to buy some vegetables, in the meantime, the two co-accused persons, Rupesh Singh and Pushkar Singh came on a motorcycle and fired on the son of the informant. While the informant was taking his son to the hospital, her injured son told her that the co-accused Pushkar Singh shot him, who is the nephew of criminal Kunal Singh, who believed that



the informant's son was behind his arrest. Also, the informant's son had tendered for contract due to which the petitioner (Mukhiya) and the co-accused Deva Gupta were annoyed and were threatening him to kill. Lastly, the informant's son in grooming sound screamed that Deva Gupta has not done good. The son of the informant was declared dead in the hospital.

7. Learned counsel for the petitioner submits that petitioner has been falsely been implicated in this case. It is next submitted that there is no allegation against the petitioner for assault upon the deceased, only allegation is of conspiracy and similarly situated persons has granted bail by the Co-ordinate Benches of this Court *vide* order dated 27.02.2024 passed in Cr. Misc. No. 82378 of 2023 which has got 8 criminal antecedents.

8. Learned counsel for the State opposes the prayer for bail of the petitioner.

9. From perusal of the F.I.R., impugned order and materials available on record it appears that there is no allegation against the petitioner for assault upon the deceased, only allegation of conspiracy and similarly situated persons has granted bail by the Co-ordinate Benches of this Court *vide* order dated 27.02.2024 passed in Cr. Misc. No. 82378 of 2023.

10. Considering the aforesaid facts and circumstances



of the case, submissions made on behalf of the petitioner, let the above named petitioner be released on bail in the event of his arrest or surrender before the trial court within a period of six weeks from today on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge, East Champaran at Motihari in connection with Chakiya P.S Case No. 301 of 2023 subject to the condition laid down under Section 482 of BNSS with further conditions as follows:

(I) The petitioner is directed to remain physically present before the learned trial Court on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioner are liable to be cancelled.

(II). If the petitioner is found involved in any other similar nature of case in future, the prosecution will have liberty to move for cancellation of his bail bonds.

(iii) Petitioner shall remain available at the time of investigation as and when required by the Investigating Officer for investigation of the present case.

(Ramesh Chand Malviya, J)

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