

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64070 of 2024**

Arising Out of PS. Case No.-435 Year-2023 Thana- MANER District- Patna

Tarun Kumar @ Tarun Pratap @ Tarun Pratap Kumar S/O Murari Ray R/O
Brahamchari Pokhara, P.S- Maner, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ganesh Prasad Yadav, Adv.
For the Opposite Party/s : Mr.Nand Kishore Prasad, APP
For the Informant : Mr. Suraj Kumar Tiwari, Adv.

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

4 14-02-2025 Heard learned counsel for the petitioner and learned
A.P.P. for the State as also learned counsel for the Informant.
Perused the case diary.

2. The petitioner apprehends his arrest in connection
with Maner P.S. Case No. 435 of 2023 registered for the
offences punishable under Sections 302, 34 & 120(B) of the
Indian Penal Code and Section 27 of the Arms Act.

3. As per prosecution case, the accusation against the
accused persons including the petitioner is of committing
murder of the Informant's brother, namely, Arun Kumar Singh.
It is alleged that the specific allegation of firing is against the



co-accused, Dhananjay Rai.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence as alleged against him and has falsely been implicated in the present case. The petitioner is the own nephew of the Informant and has falsely been implicated in the present case merely because of land dispute between them. From perusal of FIR, it is evident that the specific allegation of firing is against co-accused, Dhananjay Rai. There is only general and omnibus allegation against this petitioner. Petitioner bears four criminal antecedents and, in all of them, he is on bail as has been stated in Para-3 of the present anticipatory bail application. Other co-accused has been granted anticipatory bail by this Court *vide* order dated 31.01.2025 passed in Cr. Misc. No. 52536 of 2024.

5. On the other hand, learned A.P.P. for the State and the Informant have vehemently opposed the prayer for grant of bail to the petitioner, stating that the offence alleged is serious in nature. The petitioner is named in the F.I.R. and, hence, he does not deserve privilege of anticipatory bail. Learned counsel for the State further submits that from perusal of Para-122 the case diary, it appears that notice has been pasted on 23.05.2024 at the house of the co-accused persons including the petitioner but,



even after completion of the statutory period of thirty (30) days, the petitioner has neither been arrested nor has surrendered before the learned court. Learned A.P.P. further placing reliance on the judgment passed by Hon'ble Apex Court in the case of ***Srikant Upadhyay and others vs. State of Bihar and another in Criminal Appeal No. 2024 (@Special Leave Petition (Crl.) No. 7940 of 2023)*** reported in ***2024 SCC OnLine SC 282*** submitted that when the warrant of arrest or proclamation is issued against the person who keeps defying the orders and keeps absconding is not entitled to grant of pre-arrest bail.

6. For better appreciation of the case, the portion of the aforementioned judgment is being reproduced hereinbelow:

“25. We have already held that the power to grant anticipatory bail is an extraordinary power. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the



grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant.”

7. Considering the aforesaid facts and circumstances of the present case, material available in the case diary supported by the medical evidence, and also the fact that proceedings under Section 82 of the Cr.P.C. has also been



initiated against the petitioner, this Court is not inclined to grant anticipatory bail to the petitioner.

8. Accordingly, the prayer for anticipatory bail of the petitioner, above named, is rejected. If the petitioner surrenders before the court below within a period of four weeks from today and prays for regular bail, the same would be considered by the court below in accordance with law without being prejudiced by the order of this Court.

(Rudra Prakash Mishra, J)

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