

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85601 of 2024

Arising Out of PS. Case No.-448 Year-2024 Thana- DHANARUA District- Patna

Pintu Kumar S/o College Yadav Resident of Village- Chaiya, P.S.- Dhanarua,
Distt.- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sinha, Advocate
For the State : Mr. Amitesh Kumar, APP
For the Informant : Mr. Pramod kumar, Advocate

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

ORAL ORDER

7 19-11-2025 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 Dhanarua P.S. Case No. 448 of 2024 registered for the
offences punishable under Sections 126(2), 115(2), 118(1),
109(1), 352, 351(2) & 3(5) of the Bharatiya Nyaya Sanhita,
2023 and Section 27 of the Arms Act.

3. The informant alleged that on 04.08.2024, Ajay
Yadav threatened him when his tractor got stuck in Mahesh
Yadav's field. It is further alleged that on 05.08.2024, Ajay
Kumar, Pintu Kumar (petitioner), and their family assaulted him
with bricks and stones. It is also alleged that on Pintu Yadav's



order, Ajay Yadav fired upon him, causing a stomach injury for which he is under treatment at Mediversal Hospital, Kankarbagh.

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. So far as allegation against the petitioner is concerned, petitioner is merely an order giver, which would reveal from bare perusal of the FIR. Referring to supplementary affidavit, it is submitted that during the pendency of the present anticipatory bail application, a process under Section 84 B.N.S.S., 2023 has been issued against the petitioner, which is already under challenge before the learned Sessions Judge, Patna in Cr. Revision No. 268/2025. It is further submitted that this Hon'ble Court has consistently held, including in Cr. Misc. No. 16818/2024 (*Maharaja Kumar & Anr. Vs. The State of Bihar*) dated 06.09.2024, that even issuance of process under Section 82 Cr.P.C. (corresponding to Section 84 of the BNSS, 2023) does not bar maintainability of an anticipatory bail application in appropriate circumstances. Learned counsel has further relied upon a decision of the Hon'ble Apex Court in the case of *Asha Dubey v. The State of Madhya Pradesh* passed in



Cr. Appeal No. 4564 of 2024, wherein it is held that a person declared a proclaimed offender under Section 82 of the Cr.P.C. is not barred from seeking anticipatory bail. It is lastly submitted that co-accused, namely, Ajay Kumar has been enlarged on bail by this Court vide order dated 29.04.2025, passed in Cr. Misc. No. 5260 of 2025.

5. On the other hand, learned A.P.P. for the State and learned counsel for the informant have vehemently opposed the prayer for grant of bail to the petitioner. Referring to the counter affidavit, learned counsel for the informant fervently submits that the petitioner is not entitled to anticipatory bail as Non Bailable Warrant (NBW) was issued on 04.10.2024 against the petitioner and the process under Section 84 BNSS, 2023 was issued on 16.10.2024, which clearly shows willful evasion of arrest by the petitioner. It is next submitted that *Istihar Tamila* was pasted on the house of the petitioner in front of two witnesses on 24.10.2024. The petitioner absconded throughout the relevant period and challenged the proclamation only after obtaining a no-coercive protection granted vide order dated 13.12.2024 passed in this case, demonstrating deliberate misuse of process of law. The learned counsel for the informant submits that the petitioner has been avoiding appearance before the



learned trial court and processes under Sections 83 and 84 of BNSS, 2023 have been issued and under these circumstances, the anticipatory bail is not maintainable. The learned counsel for the informant has referred to paragraph nos. 3, 4, 5, 19 & 20 of the decision dated 14.03.2024, in the case of ***Srikant Upadhyay & Ors. vs. State of Bihar & Anr. (Special Leave Petition (Crl.) No. 7940 of 2023)*** of the Hon'ble Supreme Court to buttress this fact that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 84 of the BNSS, 2023, he is not entitled to the relief of anticipatory bail.

6. Earlier vide order dated 13.12.2024, a report was called for from the court below and it is reported that process under Section 84 of the BNSS, 2023 has been issued on 16.10.2024 and process under Section 85 of the BNSS, 2023 has also been issued. Again vide order dated 19.09.2025, a report was called for from the Court below with regard to the present stage of the case and it is reported vide report dated 17.10.2025 that supplementary record in connection with Dhanarua PS Case No. 448 of 2024 against accused Pintu Kumar is still pending as the charge-sheet and case diary have not yet been submitted.



7. Considering the rival submissions made by the learned counsel for the parties, this Court finds that even in the case of ***Srikant Upadhyay*** (supra) what has been held by the Hon'ble Supreme Court is that a person continuously defying orders and keep absconding is not entitled to the relief of anticipatory bail. But the same will not deprive the power of the Court to grant pre-arrest bail in extremely exceptional cases in the interest of justice. But, this Court is of the considered view that the present one is not the extremely exceptional case and from perusal of the records, it would manifest that petitioner is absconding himself and since processes under Sections 84 & 85 of the BNSS, 2023 have been issued and *Istihar Tamila* was pasted on the house of the petitioner in front of two witnesses on 24.10.2024, which clearly shows the willful act of disobedience of the process of the court. Moreover, investigation is still pending against the petitioner, which is evident from the report of the court below, as discussed above.

8. Thus, in the light of aforementioned discussions, the present anticipatory bail is not maintainable and the same is hereby dismissed as not maintainable.

9. However, 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)

Raj Kishore/-

U		T	
---	--	---	--

