

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17820 of 2026

Arising Out of PS. Case No.-9811 Year-2024 Thana- PATNA COMPLAINT CASE District-
Patna

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Golu Kumar S/o- Sri Anil Singh Resident of Village- Tulsi Chak Masaurhi
PS- Maner, Dist- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Reshmi Kumari D/o- Sri Satyanand Singh R/v- Chhitrauli Po- Kamla
Gopalpur Ps- Maner Dist- Patna, P/A- Aman Kumar, Mushalehpur Hatt Ps-
Sultanganj Dist- Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr.Gauri Shankar Yadav
For the Opposite Party/s :	Mr. Chandra Bhushan Prasad, APP
	Mr. Satyendra Kumar Bhatnagar
	Mr. Vijay Kumar Sinha
	Mr. Kumar Shivam Sinha
	Mr. Raushan Sinha

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

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| 2 | 13-05-2026 | <ol style="list-style-type: none">1. Heard learned counsel for the petitioner, learned
A.P.P. for the State and the learned counsel appearing on behalf
of the OP No. 2.2. The petitioner apprehends his arrest in connection
with Complaint Case No. 9811 of 2024 registered for the
offences punishable under Sections 126(2), 318(4) and 64 of the
BNS and Section 67 and 67(A) of the Information and
Technology Act 2000 and cognizance has been taken under
Section 69 and 351(2) of BNS.3. Learned counsel for the petitioner at the outset |
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submits that the instant anticipatory bail application arises out of a complaint case. It is next submitted that petitioner is a person with clean antecedent and the complainant alleges that she came in contact with the petitioner through Instagram and were in relationship for the last one year, the petitioner on 6-4-2024 called her to Hotel R-Glory on pretext of meeting his parents but she refused, thereafter on 26-4-2024 petitioner came to her home and asked her to accompany him to Marine Drive, accordingly she after seeking permission of his father accompanied him, further from Marine Drive he took her to a Hotel, where his family members were not present and petitioner put vermilion on her forehead and established physical relation and said that he will marry her, further petitioner even took her nude photographs and later resiled from marrying and threatened that he will make photo viral.

4. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the instant case by the complainant. It is next submitted that from perusal of the allegations as alleged in the FIR, it would manifest that petitioner and the informant were in love. It is further submitted that relationship was purely consensual between two consenting adults with no promise of marriage. It is also submitted that



though it is alleged that objectionable photograph of the complainant was taken but then the same is an exaggerated allegation as the photo has not been made viral on social media nor the petitioner is aware of any such photographs. It is next submitted that complainant alleges that on 26-4-2024, the petitioner took her to a hotel and established physical relation after putting vermilion on her head, but then does not disclose the name of the Hotel where she was taken on 26-4-2024 in her solemn affirmation. It is further submitted that petitioner was completely unaware that the complainant is in habit of instituting false cases against innocent persons. It is also submitted that complainant earlier had instituted Complaint Case No. 8912C of 2023 in the court of learned Chief Judicial Magistrate, Patna against Ashu Aditya, as would manifest from Annexure-P/3 to the anticipatory bail application. It is next submitted that when petitioner came to know about the conduct of the complainant, he started maintaining the distance, when the instant false case came to be instituted.

5. Learned counsel appearing on behalf of the complainant opposes the anticipatory bail application and submits that petitioner on false promise of marriage committed rape of the complainant.



6. At this stage, the learned APP, Sri Chandra Bhushan Prasad, submits that from perusal of the pleadings made in the anticipatory bail application, it would manifest that cognizance in the case has been taken and hence the petitioner is apprehending arrest and thus has moved before this Court seeking anticipatory bail. It is next submitted that after cognizance, summons are to be issued and if petitioner based on the summons appears before the learned trial court, he will not be arrested rather will join the proceedings before the learned trial court.

7. Learned APP further submits that Hon'ble Jharkhand High Court in ABA No. 2319 of 2025 (*Om Prakash Chhawnika @ Om Prakash Chabnika @ Om Prakash Chawnika vs. the State of Jharkhand*) had rejected the the anticipatory bail of Om Prakash Chhawnika @ Om Prakash Chabnika @ Om Prakash Chawnika in connection with Complaint Case No. 6181 of 2021 whereby cognizance was taken under Sections 323, 420, 467, 468, 471, 120B and 34 of the IPC. It is next submitted that cognizance in Complaint Case No. 6181 of 2021 was taken under non-bailable sections as such Om Prakash Chhawnika fearing arrest moved the Hon'ble Jharkhand High Court, but then anticipatory bail came to be



rejected, thereafter Om Prakash Chhawnika moved before the Hon'ble Supreme Court by filing SLA (Crl.) No.16221/2025 assailing the order of the Hon'ble Jharkhand High Court dated 4-7-2025 in ABA No. 2319 of 2025 arising out of Complaint Case No. 6181 of 2021. It is submitted that Hon'ble Supreme Court after discussing the case laws on the issue recorded at para-7 of the order dated 23-4-2026 in SLA (Crl.) No.16221/2025 recorded-

“ We have noticed that there is a serious problem in two States, viz. the State of Bihar and State of Jharkhand, respectively. We fail to understand that in a private complaint how does the Police involve itself or is concerned, in any manner. What was the basis for the accused to express apprehension that the police would arrest them.”,

thereafter at para-8, it is recorded --

“In a private complaint when cognizance is taken and process is issued all that the Court would do is to issue summons. We have explained many times in the past the purport of Section 87 of the Criminal Procedure Code, 1973 (for short, “the Cr.PC.”) The Section 87 of the Cr.PC. reads thus:-

“87. Issue of warrant in lieu of, or in addition to, summons.—A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person, issue, after recording its



reasons in writing, a warrant for his arrest—

(a) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or

(b) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.”

At para-9, it is recorded --

“Section 87 empowers the Court to issue warrant in lieu of, or in addition to, summons. However, this power has to be exercised only in two contingencies as explained by the provision itself, i.e, (a) and (b) referred to above respectively.”

It is further submitted that at para-10 it is recorded--

“Once the Court takes cognizance and issues summons, all that the accused has to do is to appear before that Court and join the proceedings. Why should the accused go before the Sessions Court or the High Court, as the case may be, and pray for anticipatory bail? Police has no power to arrest the accused in a complaint case unless there is a non bailable warrant issued by that Court along with the summons.”

8. At this stage, the learned counsel appearing on behalf of the petitioner submits that only summons have been issued as such in view of the order of the Hon’ble Supreme



Court dated 23-4-2026 in SLA (Crl.) No.16221/2025, the instant anticipatory bail application is not maintainable at this stage, hence seeks permission to withdraw the anticipatory bail application and submits that after receiving summons the petitioner will join the proceedings before the learned trial court. It is also submitted that even the learned Magistrate has to take note of the order of the Hon'ble Supreme Court, on which the learned APP submits that it is the duty of the petitioner to ensure that the order of the Hon'ble Supreme Court is also produced at the time when the petitioner appears before the learned Trial Court after receiving summons.

9. Since the petitioner has prayed for withdrawing the anticipatory bail application at this stage, as such the permission is accorded and the anticipatory bail application is dismissed as withdrawn with the liberty to the petitioner to appear before the learned trial court after receiving summons along with the order dated 23-4-2026 in Special Leave to Appeal (Crl) No. 16221 of 2025 passed by the Hon'ble Supreme Court.

(Satyavrat Verma, J)

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