

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74940 of 2025

Arising Out of PS. Case No.-3779 Year-2023 Thana- MUZZFARPUR COMPLAINT CASE
District- Muzaffarpur

=====

Sudhir Prasad Shahi S/o- Sri Diwakar Shahi @ Sri Diwakar Prasad Shahi
Village- Rajkhand, P.S.- Aurai, District- Muzaffarpur

... .. Petitioner

Versus

1. The State of Bihar Bihar
2. Vikramaditya Kumar @ Vikram Aditya Kumar S/o- Late Chandra Shekhar Sah @ Late Chandeshwar Sah R/v- Mednipur Ps- nanpur Dist- Sitamarhi

... .. Opposite Parties

=====

Appearance :

For the Petitioner : Mr. Krishna Kant Singh, Advocate

For the Opposite Parties : Mrs. Nirmala Kumari, A.P.P

=====

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

2 06-01-2026 Heard learned counsel for the petitioner and learned
A.P.P for the State.

2. The present application for cancellation of bail granted to Opposite Party No. 2 by the learned Additional Sessions Judge-12th, Muzaffarpur vide order dated 23.07.2025 passed in A.B.P No. 1443 of 2025 arising out of Complaint Case No. 3779 of 2023 registered for the offences under Sections 406 and 420 of the IPC has been pressed by the learned counsel for the petitioner primarily on the ground that the prayer for anticipatory bail itself was not maintainable after issuance of process under Section 82 of Cr.P.C.

3. Upon perusal of the impugned order dated



23.07.2025, it would be apparent that the order passed by the learned court below is not one which has overlooked the factum of the Section 82 Cr.P.C process having been issued and is rather well reasoned order taking into view even other facts of the case relating to dispute arising out of business transactions which could be thrashed out at an appropriate stage in trial. Objection raised with regard to the maintainability issue, has been taken note of by the learned court concerned and also considering the submissions made on behalf of the Opposite Party No. 2, who was the petitioner in the bail proceedings, the learned court has recorded in clear terms that no service report/execution report of any processes including the process under Section 82 of the Cr.P.C issued earlier against the petitioner (the present Opposite Party No.2) was available on the record which could have gone to show that the petitioner had any knowledge about the case from before and that he was evading such processes. The impugned order also talks about the proposition of law that processes issued in the absence of service report/execution report of the earlier processes cannot be termed proper and legal.

4. After considering the entire facts and circumstances of the case and also taking into consideration the



submissions made on behalf of the petitioner, this court is of the view that the order passed by the learned Additional Sessions Judge-12th, Muzaffarpur is a well reasoned one which has considered not only the merits of the case for the purposes of grant of anticipatory bail but also has considered the issue of maintainability of the application in wake of issuance of process under Section 82 of Cr.P.C and a reference in this regard may be had to the case of *Asha Dubey vs State of M.P.* reported in **2024 SCC Online SC 5633**, wherein the Hon'ble Apex Court clearly enunciates the proposition that there is no complete embargo upon consideration of anticipatory bail after processes under Section 82 of the Cr.P.C are issued and there are several other attending facts and circumstances which are to be taken into consideration. At this stage, this Court would gainfully refer to para 8 & 9 of the case of *Asha Dubey (supra)*:-

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.*

9. *When the liberty of the appellant is pitted against, this Court will have to see the circumstances of the case, nature of the offence and the background based on which such a proclamation was issued. Suffice it is to state that it is a fit case for grant of*



anticipatory bail, on the condition that the appellant shall cooperate with the further investigation. However, liberty is also given to the respondents to seek cancellation of bail that has been granted, in the event of a violation of the conditions which are to be imposed by the Trial Court or if there are any perceived threats against the witnesses.

5. As a matter of fact, even in the very recent case of ***Srikant Upadhyay Vs. State of Bihar & Anr.*** being ***Special Leave Petition (Crl.) No. 7940 of 2023*** there is a scope left open for grant of anticipatory bail even after the process of Section 82 of the Cr.P.C has been issued when such a situation arises. In the particular case at hand, the order clearly indicates that there has been no service report or execution report of any processes including the process of Section 82 of the Cr.P.C which would lead this Court to believe that the Opposite Party no.2 despite having knowledge of the processes having been issued against him was still trying to evade the processes of law. Besides the present issue of maintainability, there is no other ground of any suppression of fact or any other supervening circumstance or perversity in the order granting anticipatory bail and hence this Court is not inclined to interfere with the order granting anticipatory and in such view of the matter, the present application for cancellation of bail stands dismissed. However, the O.P. No. 2 is directed to



cooperate with investigation and trial and in event of violation of conditions imposed by the trial court, or in case of any perceived threats against witnesses, the petitioner would be at liberty to seek cancellation of bail.

6. Accordingly, the present application is dismissed with the aforementioned observations.

(Soni Shrivastava, J)

vashudha/-

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

