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Santosh Kumar Pandey, D&ASJ – II, Darbhanga
ABP No. 880/2026
(Arising out of Bajitpur P.S. Case No. 39/2026)
Kundan Kumar Dev @ Kundan Lal Dev versus the State of Bihar.
Date of Order – 12.06.2026

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-II, DARBHANGA
Anticipatory Bail Petition No. 880/2026

Kundan Kumar Dev @ Kundan Lal Dev s/o Ghuran Lal Dev @ Jibendra Lal Dev, resident of Village - Jatuka, P.S. - Bajitpur, District - Darbhanga

----- Petitioner

versus

State of Bihar

----- Opposite Party

Appearance(s):

Counsel for the Petitioner(s) : Sri I. R. Bismil, Learned Advocate.

Counsel for the State : Sri A. N. Jha, Learned Public Prosecutor.

ORDER
12.06.2026

1. The present application has been preferred on behalf of the petitioner seeking the privilege of anticipatory bail in connection with Bajitpur P.S. Case No. 39 of 2026, registered for the offences punishable under Sections 103(1) and 3(5) of the Bharatiya Nyaya Sanhita, 2023, and Section 27 of the Arms Act.
2. As per the prosecution case, the Informant gave his fard-beyan on 02.04.2026 at about 01:30 P.M. alleging therein that on 01.04.2026, his younger son, namely Vinod Mahto (since deceased), was returning home when he was allegedly surrounded by accused persons namely Shyam Mahto, Dinesh Mahto, Ramesh Mahto, Ganesh Mahto, Surat Paswan, the wife of Surat Paswan and Mukesh Yadav near Rohi Bandh. It is alleged that upon receiving information from villagers, the Informant along with his grandson rushed to the place of occurrence and found Vinod Mahto lying unconscious. He noticed that the deceased had sustained a firearm injury on his neck and that his mobile phone was missing. On the basis of the said allegations, the present First Information Report came to be instituted.

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3. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. It is contended that the petitioner was not present at the place of occurrence and was instead appearing in his B.Sc. examination, which was scheduled from 13.03.2026 to 01.04.2026. It is further submitted that the petitioner is not named in the FIR and his implication rests solely upon the confessional statements of co-accused persons recorded during investigation, which are inadmissible in evidence and possess no substantive evidentiary value. Learned counsel further submits that no incriminating article, firearm or ammunition has been recovered from the possession of the petitioner. It is also stated that though the petitioner has one criminal antecedent, the same does not disentitle him from seeking the discretionary relief of anticipatory bail. On the aforesaid grounds, prayer has been made for grant of anticipatory bail.
4. Per contra, learned Public Prosecutor has opposed the prayer for anticipatory bail. He fairly concedes that the petitioner is not named in the FIR; however, his involvement has surfaced during the course of investigation, particularly in the confessional statements of co-accused persons contained in paragraphs 171 and 223 of the case diary. It is further submitted that the Call Detail Records (CDR) collected during investigation reveal that the mobile phone location of the petitioner was in close proximity to the place of occurrence at the relevant time. The CDR further indicates telephonic communication between the petitioner and the deceased prior to the occurrence. It is argued that the investigation is still in progress and the materials collected thus far prima facie point towards the involvement of the petitioner in the commission of the alleged offence. Accordingly, it is submitted that the petitioner does not deserve the extraordinary relief of anticipatory bail.
5. I have heard the learned counsel for the parties and carefully perused the materials available on record including the case diary. Upon consideration

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of the FIR and the materials collected during investigation, it appears that the petitioner is admittedly not named in the FIR. However, his alleged involvement has surfaced during investigation, particularly through the statements of co-accused persons. Though it is true that a confessional statement made by a co-accused is not substantive evidence and by itself may not constitute a sufficient basis for conviction, the relevance and evidentiary worth of such materials are matters to be examined at the appropriate stage of trial. Significantly, the case diary further reveals that the Call Detail Record analysis places the mobile location of the petitioner in the vicinity of the place of occurrence around the relevant time. The investigation also indicates telephonic communication between the petitioner and the deceased. These circumstances constitute additional incriminating materials collected during investigation and cannot be ignored while considering the prayer for anticipatory bail. The plea of alibi advanced on behalf of the petitioner on the basis of his alleged participation in a B.Sc. examination is essentially a matter of defence. The veracity and probative value of such a plea can only be tested upon appreciation of evidence during the course of trial and cannot be conclusively adjudicated at the present stage of consideration of anticipatory bail.

6. It is well settled that while exercising jurisdiction under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, the Court is required to consider, inter alia, the nature and gravity of the accusation, the role attributed to the accused, the materials collected during investigation, the possibility of the accused influencing the investigation or tampering with evidence, and the overall interests of justice. Anticipatory bail being an extraordinary discretionary remedy, the same is not intended to be granted as a matter of course, particularly in cases involving grave offences supported by prima facie incriminating materials.

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7. In the present case, the accusation pertains to a homicidal death caused by firearm injury. The investigation is still at a crucial stage and materials collected during investigation, including the CDR analysis, prima facie connect the petitioner with the occurrence. Having regard to the seriousness of the allegations, the nature of the offence, the punishment prescribed therefor, and the stage of investigation, this Court is of the considered view that the petitioner has failed to make out a case warranting exercise of the extraordinary discretion of granting anticipatory bail.
8. Accordingly, the prayer for anticipatory bail made on behalf of the petitioner is hereby **rejected**.
9. Let a copy of this order be transmitted to the court concerned forthwith.

(Santosh Kumar Pandey)
Additional Sessions Judge-II
Darbhanga
12.06.2026

Date of Judgement/order	12.06.2026
Date of reserving judgement/Order	12.06.2026
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