

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-VI, JAMUI

Anticipatory Bail Petition No. 533 of year 2026

(Arising out of Complaint Case No. 1279C/2024)

Md. Akib @ Md. Akib Alam, S/o- Md. Kasim

R/o:- Vill- Brandi, P.S.- Katrisarai, Distt.- Nalanda

..... Petitioner

Versus

The State of Bihar

..... Opposite Party

For the Petitioner : Ld. Counsel Sri Sunil Kumar Yadav, Advocate

For the State : Ld. Addl. P.P. Sri. Chigu Ravidas

**Present: Manoranjan Kumar Jha,
District & Additional Sessions Judge-VI, Jamui**

Dated: 17.06.2026

1. By way of this order the Anticipatory Bail Petition u/s 482 of B.N.S.S., 2023 filed by accused-petitioner, namely, **Md. Akib @ Md. Akib Alam**, in connection with Complaint Case No. 1279C/2024, U/s 115(2), 74, 352, 351(2), 3(5) of B.N.S. is hereby disposed of.
2. The case of the prosecution in brief is that the complainant met with the accused-petitioner and they fell in love and later on developed physical relationship in the pretext of marriage. It is further alleged that in the year 2024, in spite of repeated request for marriage by the complainant, the accused-petitioner refused to marry her and on 25.10.2024, when the complainant along with her family members went to the house of the accused-petitioner, then the accused abused and assaulted and even threatened for dire consequences.
3. It was submitted by the Ld. Counsel for the accused-petitioner that no other bail application has been filed either in this Ld. Court or the Hon'ble High Court Patna except to it.
4. It was also submitted by the Ld. Counsel of the petitioner that the petitioner is quite innocent and has committed no offence. Further, the petitioner has been falsely implicated in this case. Further, no case under Section 74 B.N.S. is made out against the petitioner and rest offences are bailable in nature. The petitioner has no any criminal antecedents.
5. On the other hand, Ld. Additional P.P. opposed the bail and submitted to reject the same.

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6. Heard both the sides and perused the material available on record. Perused the record. It reflects that the Ld. Trial Court vide order dated 19.01.2026 issued processes under Section 115(2), 74, 352, 351(2), 3(5) of B.N.S. against the accused persons named in complaint petition including the petitioner. Ld. Counsel for the petitioner submits summons issued by the Court in this case. It further reflects that only process of summon had been issued by the Ld. Lower Court.

7. It is mandate of law and a condition precedent that the person seeks pre-arrest bail must show apprehension of arrest. It is pertinent to mention here the mandate of law as explained by the Hon'ble Supreme Court of India in Special Leave of Appeal (Crl.) No. 16221/2025, vide its order dated 23.04.2026 as :-

"8. 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."

9. 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.

10. 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.

11. We may give one another simple illustration. Take a case wherein on a private complaint, the magistrate deems fit to take cognizance under Section 200 of the Cr.PC. but postpones the issue of process till the conclusion of the magisterial inquiry under Section 202 of the Cr.P.C. If a magistrate orders a Police inquiry under Section 202 and asks the police to give a report, then whether in the course of such inquiry, the police can arrest the accused. The answer is an emphatic "NO", Police has no powers to arrest even during the course of the inquiry under Section 202 of the Cr.PC.

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12. The aforesaid aspects *need to be kept in mind* by the High Courts. Unnecessarily anticipatory bail applications are entertained and when rejected the litigants have to travel all the way upto the highest Court of this Country. We also remind the High Court that the direction issued that the petitioner should surrender and seek regular bail before the Court was also wholly *without jurisdiction.*"

8. Considering the mandate of law as explained by Hon'ble apex Court and the fact that only summons has yet been issued against the petitioner and as such this Court finds that there is no apprehension of arrest to the petitioner and accordingly the prayer of pre-arrest bail of petitioner-Md. Akib @ Md. Akib Alam, is hereby **disposed of as not maintainable.**

9. O/c to send a copy of this order along with Trial Court Record to the concerned Court, at once.

Sd/-

A.S.J-VI, Jamui

Dated:- 17.06.2026