

IN THE COURT OF ADDITIONAL SESSIONS JUDGE – II, ARWAL – 804401.

- Present: - Preetam Kumar Ratan.
Additional Sessions Judge – II,
Civil Court, Arwal.

Case No.:- A.B.P. – 589 of 2026.
[CIS CNR No.:- BRJE01-003485-2026]
[In connection with the Complaint Case No.:- 80/2025; Dated:- 05-04-2025]
(Arising out of Complaint Case No.:- 80/2025 titled @ Ajay Kumar Vs. Chhotan Kumar & Another
Pending in the Court of Chief Judicial Magistrate, Arwal)

In The Matter Of -----

Chhotan Kumar,

(S/O.:- Hemraj Yadav, aged about 29 – years;
R/O.:- Village:- Pratappur, P.S.:- Kurtha, District:- Arwal).
..... Petitioner.

Vs.

State of Bihar

..... Opposite Party.

- Complaint lodged u/Ss.:- 126(2), 115(2), 351(2), 352, 317(4), 318(2), 318(4), 320, 326(2), 336(3) of the Bhartiya Nyaya Sanhita, 2023 (corresponding to Old Ss.:- 341, 323, 506, 504, 413, 417, 420, 431, 468 of the Indian Penal Code, 1860).
- Summoning Order passed / Accused Summoned to face the Trial u/Ss.:- 115(2), 314, 316(2), 352 of the Bhartiya Nyaya Sanhita, 2023 (corresponding to Old Ss.:- 323, 403, 406, 504 of the Indian Penal Code, 1860).
- Criminal Antecedents of the Petitioner: - NIL (As per Para – 03 of the Bail Petition).
- Petitioner in Custody since dated:- Not Applicable.

Appearance: -

- For the Petitioners: - (1) Sri Ravindra Kumar, Ld. Advocate (Enrolment No.:- 3982/2001).
- For the State: - (1) Sri Sudhir Kumar, Ld. APP (Enrolment No.:- 4193/1995 as an Advocate).
(2) Sri Vijay Kumar Mishra, Ld. APP (Enrolment No.:- 1913/2002 as an Advocate).
(3) Smt. Sadhna Sharma, Ld. APP (Enrolment No.:- 9568/1996 as an Advocate).

Order No.	Date of Order	Order With Signature of the Sessions Judge	Office Note as to Action Taken on the Order (if any) with date
09	21-07-2026	Heard the learned counsel for the petitioner and the learned Additional Public Prosecutors for the State. The petitioner has preferred this application under Section – 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (corresponding to old Section – 438 of the Code of Criminal Procedure, 1973) for grant of the anticipatory bail in connection with the Complaint Case No.:- 80/2025; Dated:- 05-04-2025 wherein the petitioner- accused has been summoned to face the trial for the offence punishable u/Ss.:- 115(2), 314, 316(2), 352 of the Bhartiya Nyaya Sanhita, 2023 (corresponding to Old Ss.:- 323, 403, 406, 504 of the Indian Penal Code, 1860). Thus, he seeks pre-arrest bail. ❖ <u>THE PROSECUTION CASE: CRUX OF ALLEGATIONS:</u> - A Complaint Petition has been filed by the Complainant Ajay Kumar on dated:- 05-04-2025 against the two accused namely, (1) Chhotan Kumar (hereinafter referred to as “<u>the petitioner</u>” only), & (2) Hemraj Yadav. After the enquiry the learned Chief Judicial Magistrate, Arwal vide its order dated:- 14-10-2025 found a prima facie case under Sections – 115(2), 314, 316(2), 352 of the Bhartiya Nyaya Sanhita, 2023 (corresponding to Old Ss.:- 323, 403, 406, 504 of the Indian Penal Code, 1860). Accordingly, <u>only the summons against the said accused has been issued</u> to face the trial at present.	

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09	21-07-2026 Contd.	The prosecution case, as disclosed in the complaint petition, is that the there was an agreement for sale of land between the complainant and the accused. Substantial consideration of about ₹4,79,000/- is alleged to have been paid through cash, cheque and online transfer to the accused. Subsequently, the complainant claims to have discovered that the plot number mentioned in the agreement was incorrect and the land could not be conveyed as agreed. Upon demanding refund, it is alleged that the petitioners abused, assaulted the complainant, snatched ₹8,000/- from his pocket and threatened him with dire consequences. ❖ <u>GROUND</u>S ARGUED FOR THE BAIL: - Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. It is contended that the dispute arises out of an agreement for sale of land and is essentially civil in nature. It is further argued that the petitioner is ready and willing to execute the sale deed. It is, therefore, prayed that the petitioner be enlarged on anticipatory bail. ❖ <u>CRUX</u> OF OBJECTIONS MADE TO OPPOSE THE BAIL: - <i>Per contra</i>, learned APP for the State has opposed the prayer by submitting the fact that the anticipatory bail petition is not maintainable as there exists no apprehension of arrest of the petitioner since only the summon against him has been issued in the Trial Court Record at present. Moreover, the allegation against the accused is serious in nature and the complainant and the witnesses have supported the case. Hence, there exists no apprehensions of arrest at all at present. Thus, this Anticipatory Bail Petition is now not maintainable and hence, fit to be rejected. <u>FINDINGS OF THE COURT</u> This Court has bestowed anxious consideration to the rival submissions and has carefully examined the materials available on record along with the Lower Court Record. It is apt to ponder on the core issue involve here first. While dealing with the provisions of anticipatory bail in a private complaint case, the Hon'ble Supreme Court in its recent Order dated:- 23-06-2026 passed in the SLP to Appeal (Cr) No.:- 16221/2025 in the case of # Our Prakash Chhawnika Vs. State of Jharkhand reported in the online portal [2026 SCC OnLine SC 676] has been pleased to observe as follows: “7. ...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.” The Hon'ble Apex Court has further observed in the Para-10 of the aforesaid Judgment as under: - “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.”	

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09	21-07-2026 Contd.	Accordingly, upon perusal of the entire materials available on record at present in the light of above cited context, it transpires that:- - Only the summons against the petitioner has been issued on dated:- 25-03-2026 by the Ld. Trial Court as yet. - No Warrant of any type – either bailable or non-bailable has been either issued or ordered to be issued against the accused-petitioner in the concerned Complaint Case by the Ld. Trial Court of the C.J.M., Arwal till date. - Hence, there appears no apprehension of arrest at all of the petitioner in this case in any view of the matter at present. Considering the facts of the case and the declared legal position, this Court finds the present anticipatory bail is not maintainable since there is no apprehension of arrest of the petitioner in this case at present. Hence, taking into account of the whole above facts and circumstances of the case at present, it is hereby--- <u>ORDERED</u> - That this anticipatory bail petition of the petitioner viz.; CHHOTAN KUMAR is <u>not maintainable at present</u> and it stands <u>disposed of</u> accordingly. - That the Office is directed to send a <u>true copy of this Order</u> along with the <u>Lower Court Record (LCR)</u> to the learned Court below forthwith for information and needful. - That the Office is further directed to get this Order <u>uploaded</u> / <u>updated</u> in the <u>Case Information System (CIS)</u> forthwith. - That the Office is lastly directed to consign this Case Record, complete in all respect, in the Record Room as per Rule. (Self – Typed) (PREETAM KUMAR RATAN) Additional Sessions Judge – II, Arwal. J. O. Code:- BR-00696 (Bihar). Dated:- this 21st day of July, 2026.	