

In the Court of Additional Sessions Judge-V, Muzaffarpur

Anticipatory Bail Petition No. 1083/2026

(Arising out of Complaint Case (East) No. 3836 of 2023)

In the matter of:

Sharwan Kumar @ Shrawan Kumar s/o Late Awdhesh Thakur aged 38 yrs,
Village-Umapat Basant, P.S.-Aurai,

District-Muzaffarpur

.....Petitioner

Versus

State of Bihar

..... Opposite Party

Appearance(s)

Counsel for the Petitioner(s) : Lokesh Kumar Gunjan, Advocate.

Sangita Kumari, Advocate.

Counsel for the State : Arun Kumar, Addl. PP.

Present: Suman Kumar Divakar

Bihar Superior Judicial Service

Order

04-04-2026

1. The Petitioner is praying for anticipatory bail in connection with Complaint Case (East) No. 3836 of 2023 pending in the court of Sri Ajit Kumar, learned JM 1st Class Muzaffarpur (East) wherein learned magistrate vide its order dated 05-03-2024 took cognizance of the offence under section 420/34 of Indian Penal Code, 1860 (hereinafter referred to as 'IPC' for short). Consequent thereto, summon was issued for appearance of the petitioner.
2. Briefly stated, the petitioner is vendor/seller of the land. The Complaint has filed the complaint petition as referred above alleging therein that the Petitioner by showing himself son of his brother namely Awadhes Thakur sold his land. However, as a matter of fact, he is not the son of his brother. Furthermore, the Prayer had been made in the complaint petition for taking cognizance under Section 420, 467, 468, 471, 120B, 341, 323, 504, 506 IPC. But, the cognizance was taken under Section 420/34 IPC.
3. Learned Counsel for the Petitioner submits that he is an innocent. He has rightfully sold the property peacefully enjoyed by him and the government authority never disputed title and possession of the petitioner over land in question. He further submits that Title Suit No. 756/23 and Probate Petition 45/2024 (Original Suit No. 5/2026) are already pending in the competent court between the parties with regard to property in question and the dispute is essentially of civil nature. He has no criminal antecedent. In wake of such submissions, he prays for anticipatory bail.
4. Learned Addl. Public Prosecutor has opposed the prayer so made on behalf of the petitioner. Learned counsel for the Complainant submits that the Petitioner is not the son of his brother and he has wrongfully transferred the property. However, he has submitted nothing with regard to pendency of title suit and probate proceedings between the parties in respect of land in question.

5. Heard the parties. Considered the submissions. Perused the material on record. Certified copy of relevant order, complaint petition along with SA of the Complainant, photocopy of the sale deed along with others are attached with the petition. Hence, no necessity felt for summoning trial court record. It appears from the record that the petitioner is vendor/seller. Title suit and Probate Proceedings are pending between the parties in connection with land in question. Thus, if property is question is sold during pendency of the suit, protection of doctrine of lis pendens is available to the aggrieved party. Therefore, in the given facts and circumstances of the case, I am inclined to extend the Petitioner the privilege of pre-arrest bail. The present petition stands allowed.
6. It is ordered that the petitioner namely Sharwan Kumar@ Shrawan Kumar would be enlarged on bail after being appeared before the court concerned within 15 days from the date of this order on furnishing bail bonds of Rs. 10,000/- of two sureties of the like amount each subject to the satisfaction of learned court concerned and further subject to condition as stipulated under section 482(2) of BNSS (old Section 438(2) of the CrPC).
7. It is clarified that since the Petitioner has not disclosed in the petition as to whether proceedings under Section 82 of the Criminal Procedure Code, 1973 (Section 84 of Bhartiya Nagrik Surakasha Sanhita, 2023) ordered to be issued against him before filing of the present petition, that is, 11-03-2026 or not. If any such order has already been made by the learned court concerned before filing of the present petition, the order passed by this court shall not be given effect to. It is for the reason that non-disclosure with respect to order under section 82 CrPC (Section 84 BNSS) against the petitioner would amount to concealment of material fact.

(Suman Kumar Divakar)
Additional Sessions Judge-V
Muzaffarpur