

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-XXX, PATNA.

A.B.P. No. 1084 of 2026

(Arising out of Pirbahore P.S. Case no. 294 of 2014)

U/S 304 read with 34 of I.P.C.

1. Dr. Nigam Prakash Narain, aged about 76 years, S/o- Late Hridai Narain, R/o-5A, Patliputra Colony, P.S.- Patliputra, District- Patna.....Petitioner

Versus

1. The State of Bihar.....Opposite Party.

1. Ld. A.P.P. of the state: Mrs. Rabeka Kumari Ld. A.P.P.

ORDER

10.04.2026

1. This anticipatory bail petition no. 1084 of 2026 has been filed by above named petitioner apprehending his arrest in connection with Pirbahore P.S. Case no. 294 of 2014, registered u/s- 304 read with 34 of the I.P.C.

2. The brief of the present prosecution case is that prosecution case is as follows that one Rajendra Saw, S/O Late Bhup Saw of Bajrangpuri, New Arfabad Colony, P.S.-Alamganj, District- Patna gave a written application to SHO. Pirbahore police station alleging inter-alia that on 16/09/2014 at about 01.00 Hrs. in noon he admitted his nephew Raushan Kumar for treatment in Child Ward, P.M.C.H., Patna. On 17/09/2014 at 08.00 Hrs. in the night the oxygen has shorted thereafter it was told to the Subhash Prasad staff of Child Ward, PMCH, Patna for change the oxygen, upon this it was told to Subhash Prasad ward attendant who came after half an hour. The informant again went then the Doctor and told that when the oxygen will be changed. I know better and told the informant that go and sat don't disturb. It was also told that when it is necessary he will change the oxygen But the informant was begging, but oxygen was not supplied and due to this his nephew died at 10.30 to 11.00 Hrs. in the night. Thereafter the doctor came and told that the treatment was given in government hospital and facility of treatment likely to the facility provided in private as a, the result the child certainly died. As such according to him it was clear that the aforesaid antecedent was taken intentionally under the support of hospital administration. On the basis of aforesaid written report Pirbahore P.S. Case No. 294/2014 was instituted for alleged offences u/s 304 r/w 34 of IPC and the investigation was followed.

3. The Ld. Counsel for the petitioner says that, this is an application for grant of anticipatory bail on behalf of the petitioner above named who has been made accused person in connection with Pirbahore P.S. Case no. 294 of 2014, registered u/s- 304 read with 34 of the I.P.C. On 03/09/2025 the learned A.D.J. - XXX, Patna issued summon against the petitioner u/s 319 Cr.P.C. during evidence Session Trial No. 478/2017 arising out of Pirbahore P.S. Case No. 294/2014. The learned A.D.J.- XXX, Patna exercise of powers conferred u/s 319 Cr.P.C. issued summon against the petitioner to face trial for the offence (s) punishable u/s 304 r/w section 34

of IPC along with the already charged sheeted. The learned A.D.J. XXX Patna also issued NBW against the petitioner. On the basis of aforesaid written report Pirbahore P.S. Case No. 294/2014 was instituted for alleged offences u/s 304 r/w 34 of IPC and the investigation was followed. On 17/12/2014 after completion of investigation, the police submitted charge-sheet against only named accused Subhash Kumar @ Subhash Prasad under section 304 IPC and it was also mentioned in the charge-sheet that the supplementary investigation against the implication of P.M.C.H. administration is going on. It is stated and submitted that the accused Subhash Kumar was in jail and period of 90 days likely to be laps. As such the aforesaid charge-sheet was submitted. It is respectfully submitted that during investigation of the aforesaid case u/s 161 Cr.P.C. neither a single word was stated by any witness in the aforesaid case against the petitioner nor any, evidence against the petitioner after submission of charge-sheet cognizance was taken against the accused Subhash Prasad u/s 304/34 of IPC and the case was committed to the court of Session. Thereafter the Session Trial No. 478/2017 was transferred to the court of A.D.J.XXX Patna for trial and during trial of the aforesaid case on the basis of statement of informant the name of the petitioner was surfaced after about eleven years of the aforesaid occurrences as well as supplementary investigation is also pending. On the basis of statement of the informant the name of the petitioner was surface in this case on the statement of informant and an application was given by APP u/s 319 Cr.P.C. On the basis of statement of the informant and on the application given by APP the learned A.D.J.- XXX, Patna issued summon as well as NBW against the petitioner. The aforesaid occurrence taken place on 17/09/2014 and further statement of the informant was recorded on 19/09/2014 by the police u/s 161 Cr.P.C. during investigation of this case. But the informant did not gave statement about the petitioner. As per the charge-sheet submitted by the police it is clearly mentioned in the charge-sheet that the supplementary investigation was going on against the PMCH, Patna administration. As such the implication of the petitioner in this case is not sustainable in the eye of law. The entire allegation against any doctor is to be found true on its face value the only offence u/s 304A IPC is to be made out against the doctor, which is bailable in nature because the doctor is a medical practitioner and the aforesaid section u/s 304A IPC the purview of medical negligence. It is settled principle of law that the cause the death of the deceased is amounting to culpable homicide because the petitioner is being a doctor and it is likely to be a medical negligence. It is also pertinent to point out here that the informant did not gave any complain against the petitioner before 03/09/2025 in any forum. It is also pertinent to point out here that PW1 Surendra Saw father of deceased clearly stated in his statement that the cause of death due to negligence of Subhash Prasad, the aforesaid statement was recorded by A.D.J.- XXX, Patna in Session Trial No. 478/2017 on 02/07/2025. As such the implication of the petitioner in this case is misuse of process of law. The petitioner was HOD of patriotic department in PMCH, Patna and several doctor provide service in PMCH, Patna under the HOD. It is stated and submitted that there is no any evidence regarding the nephew of the informant was admit under whom doctor. It is respectfully submitted that the duty of the petitioner according to roaster on 17/09/2014 since 10 AM to 05 PM in PMCH, Patna. Whereas the aforesaid occurrence taken place at 10.30 to 11.00 Hrs. in the night. It is relevant to state here that as per the medical report the deceased was suffering from chronic disease septicemia, pneumonia as well as convulsion and in under senseless condition admitted in PMCH and later on the deceased died. It is stated and submitted that after the death of informant's-nephew Roshan Kumar, the informant and the

father of the deceased Surendra Saw are not ready to allow postmortem of the deceased. It is to mention here that in absence of Post mortem, the cause of death is not clear. The petitioner was a reputed doctor in PMCH, Patna and after the death of deceased Roshan Kumar a three member enquiry committee was constituted. The members of the aforesaid committee i.e. Dr. Neelam Verma, Dr. Gopal Saran and Dr. Alka Singh. The aforesaid committee gave enquiry report on 20/09/2014. Under the aforesaid enquiry report Dr. Rashmi Agrawal and Dr. Saroj Kumar who were present on duty, the aforesaid doctor were suspended on 07/11/2014 for the aforesaid occurrence. The petitioner submitted show cause to the principle of PMCH, Patna regarding the death of Roshan Kumar. The petitioner clearly stated that he has already sent a letter to Superintendent, PMCH, Patna for the transfer of fourth grade staff. The petitioner was not present at the time of the aforesaid occurrence. As such the petitioner had no concern with the aforesaid occurrence. It is stated and submitted that there is no material collected under the investigation of the case u/s 161 Cr.P.C. as well as no material available in this case against the petitioner except the statement of the informant who gave the statement against the petitioner after eleven years of the occurrence. The petitioner is a retired person, extremely an old man aged about 76 years. Petitioner is man of means having a house in the town of Patna as such there is no chance of his absconding. The petitioner is ready to furnish bail bond and also ready to abide by any condition to be laid down by this learned court for the purpose of grant of bail. In the facts and circumstances stated above the petitioner deserves to be grant anticipatory bail.

4. Learned Addl. P.P. has vehemently opposed the bail petition.

5. Heard, both side at length, on minutely perusal of entire case record along with anticipatory bail petition and case dairy, it reveals that on dated 03.09.2025 this court has alleged the petitioner u/s 319 of Cr.P.C. and after that summons, bailable warrant and N.B.W. has been sent to him for the non-appearance before the Court. The petitioner is renowned Dr. As well as his counsel has submitted that he will comply every direction to the court. Hence, upon above mentioned facts and circumstances the A.B.P. application is being **allowed**. In the event of arrest or surrender of the petitioner within four weeks from the date of communication of this order, the petitioner is directed to enlarged on bail with following conditions :

1. furnishing bail bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned Trial Court.
2. Physical present before the court on three consecutive dates of prosecution witness.

(Dictated & Corrected)

sd/-
(Sarika Vahalia)
Additional Session Judge-XXX,
Patna
10.04.2026