

In the Court of Additional Sessions Judge III, Danapur, Patna

Present: Sri Ashutosh Kumar-II, A.S.J.-III, Danapur

Bail Petition No. 310/2026

Arising out of Bihta P.S. Case No. 72/2026

Durga Kumar @ Durga Bihari @ Durga Pandit, aged about 42 years, S/o Late Ram Narayan Prasad, R/o Vill: Birla Colony, Near Patna Marriage Garden, P.S. Phulwarisharif, Distt: Patna Petitioner.

V/s.

The State of Bihar

.....O.P.

On behalf of Petitioner: Sri Praful Ranjan, Ld. Advocate

On behalf of Opposite Party: Md. Kalam Ansari, Ld. A.P.P.

On behalf of Informant: Sri Ashwini Dwivedi, Ld. Advocate

ORDER

09-04-2026

The regular bail petition filed by the petitioner, who is in custody since 09/02/2026 in connection with Bihta P.S. Case No. 72/2026, registered U/Ss. 316(2) and 318(2) of the B.N.S., which is pending in the Court of A.C.J.M.-II, Danapur.

The prosecution case, as per, the self statement of informant Anil Kumar, chairman of Digital Goal Private Limited. The company deals in real estate development of various projects with most of his operations concentrated in Bihta. Further alleged that one year ago, the accused/petitioner joined the company as an associate. On 08/05/2025, informant's company entered into a sale agreement with Shivam Kumar Deepak for a 2400 sq. feet of land in Mauza Devkuli, Khata no. 142, Thana no. 55, Khesra No. 650 and the above named accused/petitioner, as a mere witness, for which he was paid Rs. 50,000/-. It is alleged that accused/petitioner along with other associates conspired together and had not deposited Rs. 5 lakhs into the company's fund. The informant demanded the said amount but they did not return and lodged a false Case on 21/01/2026 at Gandhi Maidan P.S. It is alleged that accused persons also used information technology to spread false information about company and demanded Rs. 10 lakhs as ransom from the informant. On 22/01/2026, when the informant with his company officials were visiting project site in the Bihta area, the accused persons intercepted at gunpoint and other weapons and threatened to kill. On the basis of self statement of the informant, F.I.R. was lodged and investigation started.

The learned lawyer of the petitioner has submitted that the petitioner is quite innocent and committed no offence as alleged and the allegations levelled against him is totally false and baseless. Further submitted that earlier the petitioner has not moved any regular bail or anticipatory bail before this court or no case is pending before any court. The petitioner carry one case of Kotwali P.S. Case no. 113/2026, after lodgement of the present case. The maximum punishment of the alleged offences are less than 7 years. The petitioner is a mere witness of the sale agreement entered by company dated 08/05/2025 which is purely civil in nature. The petitioner had filed a written complaint against the informant at Gandhi Maidan P.S., vide Gandhi Maidan P.S. Case no. 54/2026, for which the informant and other co-accused filed A.B.P. No. 528/2026. It is submitted that informant alleges the embezzlement of Rs. 5 lakhs but provided no ledger, no audit report and no bank statement. The petitioner has been arrested on 06/02/2026 at 23:45 hrs without the issuance of notice U/S 35 of the B.N.S.S. It is further submitted that in D.K. Basu Vs. State of West Bengal (1997) 1 SCC 416: The Hon'ble Supreme Court laid down "Golden Guidelines" for arrest in midnight arrest without an extreme urgency or "Reason to Believe" recorded in writing that the accused would flee is a direct violation of the sanctity of these guidelines. That in Armesh Kumar Vs. State of Bihar reported in (2014) 8 SCC 273: The Hon'ble Supreme Court held that in cases punishable up to 7 years, arrest should be an exception, not the rule. (ii) The Apex Court held that arrest is not mandatory for offences with punishment up to 7 years.

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In the Court of Additional Sessions Judge-III, Danapur

Name of P.O.- Ashutosh Kumar-II

B.P. No.- 310/2026

F.I.R. Bihta, P.S. case no. 72/2026

Durga Kumar @ Durga Bihari @ Durga Pandit Vs State of Bihar

-2-

The petitioner's arrest is "unwarranted and unnecessary", specifically when he was already cooperating via his prior F.I.R. That in Siddharth Vs. State of Uttar Pradesh (2022) 1 SCC 676: held that if the accused has cooperated with the investigation and is not a flight risk, arrest is not required simply because the offence is non-bailable and also the offence is non-bailable. The power to arrest is different from the justification for arrest. That in Mohammed Ibrahim Vs. State of Bihar (2009) 8 SCC 751: The Apex Court warned against using criminal law to settle civil disputes. The complainant's allegations regarding "Sale Agreements" and "Commission Receipts" are purely civil in nature. Lastly, it is submitted that the petitioner is in custody since 09/02/2026 without any fault and is ready to execute bail bond as per direction of the court. So, the petitioner may be enlarged on bail.

The learned Addl. P.P. and Ld. Counsel for the informant have vehemently opposed the prayer of bail of the petitioner.

The learned Counsel for the informant submits that the case which was lodged by the petitioner/accused has been found false by the police in course of investigation and final form has been submitted in the said case filed by the petitioner. He further submits that through various social media platforms, the petitioner/accused has tarnished the reputation of company and threatened the informant and other employees of company and demanded Rs. 1 Crore by way of extortion. He submits that there is documentary evidence regarding threatening/criminal intimidation committed by the accused. He submits that petitioner/accused does not deserve to be enlarged on bail.

From perusal of case diary and other material available on the record, it transpires that the petitioner/accused was an associate of the company and it is also a case of both sides, that prior to filing of this case he used to work as an associate on a commission basis. From perusal of case diary and statement of witnesses, it appears that there is vague allegation levelled against the petitioner/accused and even if it is admitted that the petitioner/accused had taken money from the informant's company then it would be termed as a transaction in natural course of business. There is also vague allegation regarding misappropriation of 5 lakhs rupees as alleged by the informant because it is nowhere stated in the statement of witnesses that who had given 5 lakhs rupees to the petitioner/accused and mode of transaction of aforesaid money.

Moreover, the petitioner is in custody for about 65 days and the offences registered against the petitioner/accused entails maximum punishment for 7 years. Thus, considering the facts discussed above and nature of the offence, let the above named petitioner/accused be enlarged on bail upon furnishment of bail-bonds Rs. 10,000 with two sureties of the like amount each **with condition that the petitioner/accused will not use inducement, coercion, threat or criminal intimidation against the informant and any employees of company in any manner, either direct or indirect, and if any such aforesaid act done by the accused, then prosecution/informant will be at liberty to file cancellation of bail of the petitioner/accused.** O/C is directed to send a copy of this order to the Ld. Trial Court and a copy of the same be uploaded in C.I.S.

(Dictated)

Sd/-

(Ashutosh Kumar-II)

Additional Sessions Judge III, Danapur

09-04-2026

Memo No..... Dated...../...../.....

Copy forwarded to

the Ld. Court of.....

Seal of the Court

**(Ashutosh Kumar-II)
Additional Sessions Judge
III, Danapur
09-04-2026**

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