

In the Court of Sessions Judge, Supaul
A.B.A.-1731/2025
(Arising out of Bhimnagar PS Case No:-51/2024)

	<p>Shiv Kumar Mukhiya @ Shivam Mallah, S/o- late Khattar Mukhiya, R/o- Dahgama, PS- Karjain, District- Supaul;</p> <p style="text-align: right;">.....Accused/Petitioner</p> <p style="text-align: center;">Vs.</p> <p>State of Bihar.O.P.</p> <hr/>
<u>07/04/2026</u>	<p>Ld. Counsel for petitioner Sri. Pankaj Kumar Das, Advocate.</p> <p>Ld. Spl. P.P Sri. Shyam Sundar Prasad, for the State.</p> <p>By this order we are going to dispose off the anticipatory bail application filed on behalf of accused/ petitioner, namely Shiv Kumar Mukhiya @ Shivam Mallah, who is apprehending his arrest in connection with Bhimnagar PS case No.51/2024, u/s- 8(c)/21(b) of N.D.P.S. Act.</p> <p>Ld. counsel for the accused/ petitioner submitted that accused/ petitioner is quite innocent and has committed no crime and he has falsely been implicated in this case out of grudge, malice and dirty party politics. He further submitted that accused/ petitioner has not involved in any other case and having the clean antecedent. He further submitted that accused/ petitioner is not named in FIR and he has been framed in this case only on the basis of confessional statement of co-accused. He further submitted that no any contraband has been recovered from the conscious possession of the accused/ petitioner. He further submitted that the offence as alleged in FIR is not applicable against the accused/ petitioner. It is also submitted that accused/ petitioner is ready to abide by the provisions of section 482 of B.N.S.S, so he may be admitted to the anticipatory bail.</p> <p>Ld. Spl. PP for the State strongly opposed the anticipatory bail application.</p> <p>In brief, the prosecution story is that on dated 21.09.2024 at about 05:00 P.M., Inspector Vivek Pandey of SSB received a secret information regarding the transportation of illicit contraband on a E-rickshaw. Thereafter, he prepared a raiding party and started searching the vehicle near Ramjanki Mandir at Saharsa Chowk and at about 06:20 P.M, he intercepted one E-rickshaw and two persons traveling on the said E-rickshaw were overpowered and they disclosed their names as Mohammad Akbar and Lalan Mallah and after following the procedure of NDPS Act, both the apprehended accused and their E-rickshaw was duly searched and beneath the driver seat under the tool box 50 grams of illicit Brown Sugar was recovered. The recovered contraband was duly weighted and it was found as 51.890 Grams. Thereafter, the police has prepared the seizure list and on the basis of self statement of Inspector,</p>

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Vivek Pandey, the FIR was registered and the accused was duly arrested.

Argument heard from both sides and perused the record as well as case diary. On going through the case diary, it transpires that the members of raiding party namely H.C. Dipankar Gupta and constable Lalan Kumar Paswan have duly supported the prosecution case. The samples of recovered Brown Sugar was sent to Forensic Science Laboratory for chemical examination but the report has not received so far. In this case, during the course of interrogation the police has also recorded the confessional statement of apprehended accused Lalan Mallah and he disclosed to the police that he along with Akbar Miyan were going to Nepal on E-rickshaw and the SSB personnel has overpowered them near Ramjanki Temple and the contraband was recovered from his possession and he has specifically disclose to the SSB Tema that the Brown Sugar, which was recovered from his possession was brought from Shivam Mallah, the petitioner herein and going to handover the same to his nephew Sitaram Mallah. On minute scrutiny of the entire case diary, it transpires that 51.890 Grams of Brown Sugar was recovered from the accused Lalan Mallah and he has specifically stated to the police that the Brown Sugar, which was recovered from his possession was brought from Shivam Mallah, the petitioner herein and going to handover the same to his nephew Sitaram Mallah. There is strong connivance between the arrested accused and this accused/ petitioner. The allegation against this accused/ petitioner is very serious in nature. The investigation of this case against this accused/ petitioner is in primary stage. The custodial interrogation of the accused/ petitioner is also required. The tempering of the prosecution evidence is also cannot be ruled out.

Keeping in mind the seriousness of the allegation and other surrounding circumstances, I find that accused/ petitioner is not entitled to get the benefit of anticipatory bail. As such, the prayer of the anticipatory bail, on behalf of accused/ petitioner namely Shiv Kumar Mukhiya @ Shivam Mallah, is hereby, **Rejected.**

Dictated
-Sd-
(Anant Singh)
Sessions Judge, Supaul