

In the Court of Motish Kumar Singh Principal Sessions Judge, Siwan
Anticipatory Bail Petition No. 1104/2026
Darauli P.S Case No. 33/1997

Dharamnath Sharma S/o- Late Hridaya Nand Sharma.....Petitioner
Versus
The State of Bihar.....Opposite Party.

19.05.2026

ORDER

1. Learned counsel for the petitioner moves present anticipatory bail application filed on behalf of the accused-petitioner namely **Dharamnath Sharma** apprehending his arrest in connection with Darauli P.S Case No. 33/1997 registered under section 302/34 of IPC.

2. Learned counsel for the petitioner submits that petitioner is quite innocent and he has been falsely implicated in this case. Learned counsel further submits that earlier no any bail petition either anticipatory or regular on behalf of this petitioner either before this court or before Hon'ble High Court of Judicature at Patna. The petitioner has got clean past. Learned counsel further submits that after submitting final form by local police the learned lower Court on protest directed to consider the case in complaint case bearing C.No. 204/1998 styled as Madan Sharma Vs. Rajnish Sharma. Learned counsel further submits that this case has been filed only to put undue pressure due to previous enmity and a partition Suit bearing Case No. 129/2026, in which Madan Sharam is defedant and the case has decided in favour of Hirdyanand Sharma from the Court of learned Sub Judge-V, Siwan. There is no chance of his absconding and tampering with the prosecution evidence or the witnesses. Thus, learned counsel prays that petitioner may be granted anticipatory bail.

3. On the other hand, learned P.P vehemently opposes the prayer for anticipatory bail and submits that the petitioner has filed this anticipatory bail petition which is not maintainable, and therefore the same may be dismissed.

4. Heard. Perused the record.

5. From perusal of the record, it transpires that an F.I.R in this case was registered *vide* Darauli P.S Case No. 33/1997 dated 30.04.1997 u/s 302/34 of IPC against accused-petitioner and other co-accused. As per F.I.R, the

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informant alleged that on 29.04.1997 at around 8:30 P.M, he had gone to look after the maize plants and returned at 09:15 P.M with complaints of vomiting and stomach pain. Thereafter, by motorcycle with Mahatam Sharma reached at Primary Health Centre Mairwa and during treatment he said that Rajnish Sharma and Dharmnath Sharma had fed him something and during treatment he died.

6. From further perusal of the record, it also transpires that the cognizance was taken under section 302/34 of IPC vide order dated 06.05.2003 against the accused-petitioner and co-accused and this record was fixed for appearance of the accused-petitioner after issuance of summons, but due to non-appearance of petitioner B.W and N.B.W were issued against petitioner and co-accused by learned Court below. Order sheet further shows that process of 82 of Cr.P.C were also issued against the petitioner, but execution report does not appear to have been received by the Learned Court.

7. Hon'ble High Court in the matter of **Santosh Yadav@ Santosh Kumar Yadav V/s State of Bihar** in Criminal Miscellaneous No. 38750 of 2021 decided on 04.07.2022 has been pleased to hold that in the event of the declaration u/s 82 of Cr.P.C, it is not as if in all cases that there will be a total embargo on considering the application for the grant of anticipatory bail.

8. Thus, from the aforesaid Judgment, it is clear that issuance of process of 82 of Cr.P.C is, *ipso facto*, not a total embargo on the maintainability of anticipatory bail petition. Whether an anticipatory bail petition shall be maintainable or not where process of 82 has already been issued, depends upon the facts of a case.

9. From perusal of Para No. 62 of the case diary reveals that the witness(doctor) has stated that a boy, who was brought to the hospital by his father and others, who was in an unconscious state. Sometimes when he regained consciousness, he would say that he had taken a pill and did not hold anyone responsible for it.

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From the perusal of case diary, it appears that I.O and his subordinate authority given clean chit and found innocent to petitioner. From perusal of Para No. 3 of bail petition, it appears that petitioner bears clean criminal antecedent.

10. In premise of the aforesaid, present anticipatory bail petition filed on behalf of petitioner **Dharamnath Sharma** is hereby **allowed**. It is directed that in the event of his arrest or surrender before learned trial court within six weeks, the petitioner shall be released on furnishing by him bail bonds of Rs. 10,000/- with two sureties of like amount each to the satisfaction of the learned trial Court subject to conditions as mentioned under section 438(2) of Cr.P.C with further **condition that the petitioner shall remain present before the learned Trial Court on each and every date and shall cooperate in the proceeding till final disposal of the case.**

(Dictated)

S/d-
(Motish Kumar Singh)
Sessions Judge, Siwan.
19.05.2026