

IN THE HIGH COURT OF JHARKHAND AT RANCHI
A.B.A. No.2695 of 2025

Ajay Kumar Singh, son of late Bal Mukund Singh, resident of village and PO Mahadev Simaria, PS Sikandra, District Jamui, Bihar
... ... Petitioner(s)

Versus

The State of Jharkhand. **... ... Opposite Party(s)**

CORAM : SRI ANANDA SEN, J.

For the Petitioner(s) : Mr. Kaushik Sarkhel, Advocate
Mr. Abhishek Singh, Advocate.
For the State : Ms. Bandana Sinha, A.P.P.

06/ 09.07.2025

Heard the parties.

- 2.** This anticipatory bail application under Sections 482 and 484 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, has been preferred by the petitioner apprehending his arrest for offences registered under Sections 379, 201 and 120B of the Indian Penal Code pending in the court of Chief Judicial Magistrate, Jamtara in connection with Jamtara PS Case No. 224 of 2024.
- 3.** At the very outset, Mr. Kaushik Sarkhel, learned counsel appearing on behalf of the petitioner submits that in compliance of notice under section 41A of Cr.PC the petitioner has appeared before the Investigating Officer and is cooperating with the investigation. He submits that the petitioner was not arrested when he appeared before the Investigating Officer.
- 4.** Learned A.P.P. representing the State opposes the prayer for anticipatory bail.
- 5.** The provision of anticipatory bail is under sections 482 and 484 of the BNSS. As per the said provision it is apparent that only a person who is having an apprehension of being arrested should approach the court for grant of anticipatory bail so the "apprehension of being arrested" is a *sine qua non* and pre-requisite to file an application under sections 482 and 484

of BNSS.

6. Further section 35(3) of BNSS provides as under:

35(3) The police officer shall, in all cases where the arrest of a person is not required under sub-section (1) issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.

7. The very provision clearly suggest that when the police does not feel it proper to arrest anyone then the notice under section 35(3) of BNSS is issued. Thus, if the notice under section 35(3) of BNSS is issued in favour of a person, it means that the police does not feel it proper to arrest him.

8. In this case it is an admitted case of the petitioner that notice under section 35(3) of BNSS has been issued which suggests that the police did not feel it proper to arrest the petitioner and further as per the petitioner's statement the petitioner has appeared before the Investigating Officer and the Investigating Officer did not arrested him. This clearly suggests that the petitioner should not have any apprehension of being arrested.

9. Thus, since the petitioner has no apprehension of being arrested, this Anticipatory Bail Application is **disposed of** at this stage as being misconceived.

(ANANDA SEN, J.)