

IN THE HIGH COURT OF JHARKHAND AT RANCHI
A.B.A. No. 2865 of 2025

- 1. Pappu Kumar Sah, aged about 34 years.
2. Rajesh Kumar Sah, aged about 31 years.
(Both are S/O Ram Prasad Sah, R/O Talbariya, PO & PS – Barhait,
District – Sahibganj. **... Petitioners**

Versus

The State of Jharkhand

... ... Opposite Party

CORAM: SRI ANANDA SEN, J.

For the Petitioner(s) : Mr. Pratiush Lala, Advocate
: Mr. Deepak Sahu, Advocate
For the State : Mrs. Mohua Palit, APP

04/ 11th July 2025

1. Heard the learned counsel for the parties.
2. This anticipatory bail application under Section 482 and 484 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, has been preferred by the petitioners apprehending their arrest for offences registered under Sections 323, 354, 452 and 34 of the Indian Penal Code, where punishment of Section 452 of the Indian Penal Code is for a maximum period of five years and Section 323 is of one year. Thus, all the offences are punishable for a period of seven years or less.
3. Learned counsel for the petitioners submits that the learned Sessions Judge, in his order dated 18.03.2025 while considering anticipatory bail petition of the petitioners clearly has mentioned that after investigation, charge-sheet has been submitted by the Investigating Officer and cognizance was taken for the offence punishable under Sections 323, 354, 452 and 34 of the Indian Penal Code against two accused persons and both the petitioners are two of them. He further submits that corrigendum as has been issued in reference of petitioner no. 2, namely, Rajesh Kumar Sah, has also been mentioned. He further admits that against both these petitioners, summons have been issued

after cognizance has been taken in this case as charge-sheet has already been filed.

4. Considering the submission of the petitioners and also the order of the learned Principal & Sessions Judge, I find that learned Principal & Sessions Judge has not followed the directions and guidelines given by the Hon'ble Supreme Court in the case of *Satender Kumar Antil Vs. Central Bureau of Investigation & Another*, reported in *2021 (10) SCC 7 73*.
5. The Hon'ble Supreme Court in the aforesaid order has issued guidelines by categorizing the offences in four categories. In Category A includes the offences punishable for imprisonment of seven years or less not falling under categories B and D. Thus, the offence as alleged in this case, does not fall within the categories of B and D of the aforesaid order.
6. In the aforesaid order, the Hon'ble Supreme Court further laid guidelines in category - A offences that after filing of the charge-sheet / complaint taking of cognizance, ordinarily summons has to be issued in the first instance and if the accused does not appear despite service of summons, then bailable warrant of physical appearance may be issued. The non-bailable warrant of arrest will be issued on failure of appearance despite issuance of bailable warrant and the same may be cancelled / converted into bailable warrant, if the accused later on appears. Further it has been held that bail application of such accused on appearance may be decided without the accused being taken into physical custody or by granting interim bail.

“Category A

After filing of charge-sheet / complaint taking of cognizance.

- (a) Ordinary summons at the 1st instance / including permitting appearance through lawyer.
- (b) If such an accused does not appear despite service of summons, then bailable warrant for physical appearance may be issued.

- (c) NBW on failure to appear despite issuance of bailable warrant.
- (d) NBW may be cancelled or converted into a bailable warrant / summons without insisting physical appearance of the accused, if such an application is moved on behalf of the accused before execution of the NBW on an undertaking of the accused to appear physically on the next date/s of hearing.
- (e) Bail applications of such accused on appearance may be decided without the accused being taken in physical custody or by granting interim bail till the bail application is decided.”

7. After going through the impugned order, I find that in spite of taking note of the fact that charge-sheet has been submitted against both these accused persons, the learned Sessions Judge has dismissed the anticipatory bail application of these petitioners in violation of the guidelines of the Hon’ble Supreme Court. This is an utter disregard of the order passed by the Hon’ble Supreme Court in the case of *Satender Kumar Antil Vs. Central Bureau of Investigation & Another*, reported in *2021 (10) SCC 773*.
8. Since the charge-sheet has already been submitted against these petitioners and further considering the clear cut finding and the observations in the charge-sheet that the petitioners have co-operated with the investigation through-out and have appeared before the Investigating Officer in compliance of the notice under Section 41A of the Cr. P.C., I am inclined to **allow** this anticipatory bail application of these petitioners. The petitioners above named, are directed to surrender before the learned court below within four weeks from the date of receipt of copy of this order and on the event of his surrender or arrest, they shall be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each, to the satisfaction of *learned Court of Sub Divisional Judicial Magistrate, Sahibganj*, in connection with Barhait *P.S. Case No. 81 of*

2023, (GR No. 194 of 2024), subject to the condition that one of the bailers should be a close relative of the petitioner and other should be a resident of State of Jharkhand, having sufficient landed property in his name or in the name of his ancestors in which he is having share and to that effect, he has to file an affidavit before the Trial Court indicating his share in the property.

9. Further, petitioners are directed to appear before the concerned cognizance taking Court and file their respective bond to the satisfaction of the trial court with an undertaking that they will co-operate with the trial.
10. It is expected that the learned Sessions Judge should be more cautious in future in dealing with these types of matters.
11. Accordingly, this anticipatory bail application of these petitioners, stands ***allowed.***
12. Let a copy of this order be sent to the learned Sessions judge, Sahibganj.

(ANANDA SEN, J.)

Aditi