IN THE HIGH COURT OF JHARKHAND AT RANCHI
A. B. A. No. 5595 of 2025

Harish Kumar Pathak, aged about 58 years, son of late Shri Bhola Pathak, resident of 190/2/3, Road No.9, Adityapur-2, P.O. and P.S. Adityapur, District-West Singhbhum, Jharkhand-831013.

..... …Petitioner

Versus

The State of Jharkhand ..... … Opposite Party

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner :Mr. Indrajit Sinha, Advocate
Mr. Ajay Kr. Sah, Advocate

For the State : Mr. Pankaj Kumar, Spl. P.P.
: Ms. Shauda Kumari, A.C. to P.P.

03/ 09.10.2025: Heard learned counsel for the petitioner and learned counsel for the State.

2. The petitioner is apprehending his arrest in connection with Narayanpur P.S. Case No. 154/2016, corresponding to G.R. No. 876/2016, registered under sections 354/341/342/323/325/307/504/506/34 of the I.P.C. (Section 304 of I.P.C. was added vide order dated 17.05.2018), pending in the Court of learned Additional Chief Judicial Magistrate, Jamtara.

3. Mr. Indrajit Sinha, learned counsel for the petitioner submits that subsequently Section 304 of I.P.C. has been added vide order dated 17.05.2018. He further submits that earlier petitioner has moved in A.B.A. No. 4304 of 2018 which has been rejected vide order dated 18.12.2018 and thereafter petitioner again moved in A.B.A. No. 14 of 2019 which has been rejected vide order dated 26.11.2019 and thereafter the petitioner filed Cr.M.P. No. 1664 of 2019 for quashing of entire criminal proceeding which has been dismissed as withdrawn vide order dated 05.08.2025.

4. Mr. Sinha, learned counsel submits that new cause of action is there in view of that this anticipatory bail application has been filed. According to him, the petitioner has not committed any offence as alleged in

the F.I.R and entire allegations are false and concocted. He then submits that no offence as alleged in the F.I.R, is made out so far this petitioner is concerned. He also submits that after investigation chargesheet has been submitted on 20.09.2018. He refers to certain paragraphs of the counter affidavit filed by the respondent-State in Cr.M.P. No. 1664 of 2019 and submits that those paragraphs are helping the petitioner. He further submits that petitioner has been exonerated in departmental proceeding and in view of that anticipatory bail may kindly be granted. He draws the attention of the Court to the medical report and submits that in medical report cause of death is not due to brutal assault rather that has occurred due to illness of the deceased and in view of that anticipatory bail application may kindly be allowed.

5. On the other hand, Mr. Pankaj Kumar, learned counsel for the State vehemently opposes the prayer and submits that chargesheet has been submitted based on police investigation as well as C.I.D investigation against the petitioner and on the date of arrest of the deceased was 03.10.2016 whereas date of arrest was shown as 04.10.2016. He further submits that there is no signature of the competent authority on the station diary. He further submits that entire aspect has been argued by the learned counsel for the petitioner, was the subject matter in the earlier anticipatory bail applications and there is nothing new to file fresh anticipatory bail application. He also submits that trial court has refused the further investigation on the prayer made by the I.O.

6. It is an admitted position that two anticipatory bail applications preferred by the petitioner, has already been rejected by the Co-ordinate Bench of this Court by order dated 18.12.2018 and 26.11.2019 respectively.

This petitioner has filed Cr.M.P. for quashing of entire proceeding which has also been dismissed as withdrawn. The medical report has been considered by the Co-ordinate Bench in A.B.A. No. 4304 of 2018 elaborately and the Co-ordinate Bench has been pleased to reject the anticipatory bail application.

7. Upon making a close survey of the section 482 of the BNSS, there could be no slim doubt that the words and languages employed in the Section do not even remotely foreshadow that application for anticipatory bail, could be harvested as there could be no revival of "reasons to believe" of apprehension of arrest in the subsequent application when the earlier application has suffered rejection.

8. Section 482 clothes a party with a right when he reasonably apprehends that he may be arrested on an accusation of having committed a non-bailable offence. This particular accusation, however, the petitioner may say, does not suffer from any variation from time to time and the new grounds cannot buttress such accusation. This accusation does not occur any change as the direction of the Court will inevitably follow from the accusation which still remains unimpared. It will be ligitimate to hold that the boundary of s. 482 is limited, if analysed with s. 483 which is unlimited in its scope and its application. It is permissible for an accused to repeat his prayer for bail on new grounds under s. 483 of the BNSS. after rejection of his earlier bail as the language employed in s. 483 are, "that any person accused of an offence and in custody be released on bail". This suggest without any slender of doubt or ambiguity that the accused in custody charged with an offence, *prima facie*, has a legitimate right to repeat his prayer for bail at any time.

9. In the context, repetition of prayer for anticipatory bail after rejection by a Bench of co-ordinate jurisdiction after invoking the power of review of the decision of earlier Division Bench of co-ordinate jurisdiction may lead to a judicial anarchy about which caution has been sounded by the Supreme Court in *Mahadolal* v. *Administrator General* AIR 1960 SC 1930:—

> "Judicial decoram no less than legal propriety forms the basis of "judicial procedure" and "if one thing is more necessary in law than any other thing it is the quality or certainty" and that "that quality would totally disappear if Judges of co-ordinate jurisdiction in the High Court start overruling one another's decisions". It was observed further that the result would be utter confusion if a "Judge sitting singly in the High Court is of opinion that the previous decisions of another single-Judge on a question of law is wrong and gives effect to that view instead of referring the matter to a larger Bench" as "in such a case lawyers would not know how to advise their clients and all courts subordinate to the High Court would find themselves in an embarassing position of having to choose between dissentient judgment of their own High Court."

10. In this case chargesheet has been submitted against the petitioner. All these aspects were subject matter of earlier anticipatory bail applications. There is no fresh ground to entertain this anticipatory bail application. Accordingly, this anticipatory bail application is rejected.

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Dt.09.10.2025 **(Sanjay Kumar Dwivedi, J.)**

Satyarthi/A.F.R