

ITEM NO.46

COURT NO.12

SECTION II-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s).48397/2024

[Arising out of impugned final judgment and order dated 02-08-2024 in CRM No.40437/2024 passed by the High Court of Judicature at Patna]

MOHAMMAD UMAIR

Petitioner(s)

VERSUS

THE STATE OF BIHAR

Respondent(s)

(IA No. 125113/2026 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

IA No. 125109/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 125112/2026 - EXEMPTION FROM FILING O.T.

IA No. 125111/2026 - PERMISSION TO PLACE ADDITIONAL FACTS AND GROUNDS)

Date : 30-04-2026 This matter was called for hearing today.

CORAM :

HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

HON'BLE MR. JUSTICE R. MAHADEVAN

For Petitioner(s) Mr. Rajiv Kumar Virmani, AOR  
Mr. Shubham Pandey, Adv.  
Mr. Akashdeep Rajput, Adv.  
Mr. Naimesh Gupta, Adv.

M/S. V. Maheshwari &amp; Co., AOR

For Respondent(s) Mr. Anshul Narayan, Addl. Standing Counsel  
Mr. Prem Prakash, AOR

O R D E R

Heard learned counsel for the parties.

2. Delay condoned.

3. The petitioner is aggrieved by the observation made by the

High Court of Judicature at Patna in Criminal Miscellaneous No.40437 of 2024 vide order dated 02.08.2024 which though, had granted anticipatory bail to the petitioner in connection with FIR No.5109051240051 of 2024 dated 18.01.2024, registered at P.S. Mufassil Thana, District Gaya, Bihar, for the offences punishable under Sections 147, 148, 149, 341, 323, 337, 307, 504 and 506/34 of the Indian Penal Code, 1860 and under Section 27 of the Arms Act, 1959 but with the stipulation that if the charge sheet is submitted against the petitioner, in that event, the said order dated 02.08.2024 granting anticipatory bail to the petitioner shall lose its effect and the Trial Court shall take all coercive steps to ensure that the petitioner is behind bar.

4. Learned counsel for the petitioner submits that such condition is absolutely unwarranted and causes prejudice to the petitioner in a manner not authorised by law. It was submitted that once the Court takes a call and is satisfied that a person is entitled to anticipatory bail, merely submission of a charge sheet, should not *ipso facto* change the situation and make him liable to be arrested.

5. Learned Additional Standing Counsel for the respondent-State of Bihar has fairly submitted that such condition may not be proper.

6. Having considered the matter in its entirety, we find force in the submissions of learned counsel for the petitioner. The fact that the High Court was satisfied and granted anticipatory bail to the petitioner indicates that a case for relief had been made out. However, pausing here, the High Court may be correct to the extent that at that point of time, because the police had not found the

case true against the petitioner as there was no charge sheet, an observation could have been made that once the Investigating Agency finds evidence against the petitioner, the scenario would change. To this extent, we agree. However, directing that the order granting anticipatory bail shall lose its effect and the petitioner would be arrested, is totally improper. The High Court could have directed the petitioner to appear before the Trial Court and then, seek bail in the matter, once the charge sheet is submitted.

7. Accordingly, the impugned order dated 02.08.2024 passed by the High Court of Judicature at Patna in Criminal Miscellaneous No.40437 of 2024 is modified to the extent that paragraphs no.4 and 6 of the said impugned order, which directs that if the charge sheet is submitted against the petitioner, in that event, the anticipatory bail order shall lose its effect and the Trial Court shall take all coercive steps to ensure that he is behind bars, are set aside. The petitioner shall appear before the Trial Court within two weeks from today and seek bail, which shall be considered, in accordance with law.

8. We clarify that we have not expressed any opinion on the merits of the matter.

9. The present Special Leave Petition stands disposed of in the aforementioned terms.

10. Pending application(s), if any, shall also stand disposed of.

(SAPNA BISHT)  
COURT MASTER (SH)

(ANJALI PANWAR)  
ASSISTANT REGISTRAR