

IN THE HIGH COURT OF JHARKHAND AT RANCHI
A.B.A. No.2439 of 2025

1. Ruplal Rana, son of Late Mital Rana
2. Mahesh Rana, son of Rooplal Rana
3. Vijay Rana @ Bijay Kumar, son of Ruplal Rana.
Petitioner Nos.1 to 3 are resident of Village Gaida, Gaira P.O. Chuglamo, P.S. Barkattha, District Hazaribagh.
4. Raju Rana, son of Vasudev Rana, resident of Village Kolhuwakala, P.O. Telaiyadam, Kolhua Kalan, P.S. Telaiya Dam, District Hazaribagh.

... .. Petitioners

Versus

1. The State of Jharkhand.
2. Baleshwar Rana, son of late Pachu Rana, resident of Village Gaida, P.O. & P.S. Barkattha, District Hazaribagh.

... .. Opposite Parties

CORAM : SRI ANANDA SEN, J.

For the Petitioner(s) : Mr. Randhir Kumar, Advocate.
For the State : Mr. Pankaj Kr. Mishra, A.P.P.

03/ 11.06.2025

This case is listed on mentioning today.

2. This application being A.B.A. No.2439 of 2025 which arose out of a complaint and was filed after taking cognizance, was disposed of by this Court vide order dated 21.04.2025. Order dated 21.04.2025 reads as hereunder:-

"This is an application filed by the petitioners praying for grant of anticipatory bail in terms of sections 482 and 484 of the Bhartiya Nagarik Suraksha Sanhita, 2023, as the petitioners have been allegedly implicated in a criminal case registered for the offences punishable under sections 147, 148, 149, 323, 420, 406, 467, 468, 504, 506, 380, 451, 452 and 120B/34 of the Indian Penal Code, in connection with Complaint Case No. 1635 of 2024, pending in the court of Judicial Magistrate, 1st Class, Hazaribag.

2. *Heard the learned counsel for the petitioners and the learned counsel for the State.*

3. *The learned APP opposes the prayer for anticipatory bail.*

4. *The present case arises out of the complaint and cognizance has already been taken. When the cognizance has been taken and the*

petitioners have been summoned, there is no apprehension of arrest. The petitioners have to appear before the trial court which has issued summons. Further, since the case arises out of complaint, there is no question of investigation.

5. Accordingly, this anticipatory bail application stands disposed of. The petitioners are directed to surrender before the learned court below who will consider his case as per law."

3. Learned counsel representing the petitioners while mentioning submitted that one of the petitioners i.e. petitioner No.1 – Ruplal Rana, aged about 66 years, appeared before the learned Magistrate, in compliance of the summons. He submits that the judgment of the Hon'ble Supreme Court in the case of ***Satender Kumar Antil vs. Central Bureau of Investigation & Another***, reported in ***(2021) 10 SCC 773***, ***Satender Kumar Antil vs. Central Bureau of Investigation & Another***, reported in ***2022 (10) SCC 51***, ***Satender Kumar Antil vs. Central Bureau of Investigation & Another***, reported in ***2024 (9) SCC 198***, was also placed before the Magistrate at the time of his appearance. It is his contention that in utter disregard of the judgments passed by the Hon'ble Supreme Court in the case of ***Satender Kumar Antil*** (supra), learned Magistrate had taken the person in custody by rejecting the bail application. Learned counsel also submitted while mentioning, that being sceptical, the other petitioners chose not to appear. Thus, he prayed that order dated 21.04.2025 may be modified accordingly, considering the development which had taken place.

4. On submission of learned counsel representing the petitioners, this case was notified and listed in the second half.

5. This Court requests learned counsel Mr. Jitendra

Shankar Singh, to assist this Court as *Amicus Curiae*.

6. In the second half, learned counsel representing the petitioner on instruction submitted that initially petitioner No.1 – Ruplal Rana was taken in custody and was released on bail by the learned Sessions Court. He submits that in utter disregard of the guidelines in the case of *Satender Kumar Antil* (supra), the Magistrate has passed the order taking the petitioner in custody.

7. The Hon'ble Supreme Court in the case of ***Satender Kumar Antil vs. Central Bureau of Investigation & Another***, reported in **(2021) 10 SCC 773**, in para-3, has categorized the offences in four categories. Category-A are the cases which relates to "after filing of charge-sheet / complaint and taking cognizance". Category-A is a separate category by itself and it cannot be merged with Category-B & D. The procedure which has been prescribed by the Hon'ble Supreme Court in the case where cognizance has been taken after filing a complaint and after summons have been issued, is well defined there. It is necessary to quote para-3 of the judgment of ***Satender Kumar Antil*** (supra), reported in **(2021) 10 SCC 773**, which reads as hereunder:-

"3. We are inclined to accept the guidelines and make them a part of the order of the Court for the benefit of the courts below. The guidelines are as under:

"Categories/Types of Offences

(A) Offences punishable with imprisonment of 7 years or less not falling in Categories B and D.

(B) Offences punishable with death, imprisonment for life, or imprisonment for more than 7 years.

(C) Offences punishable under Special Acts containing stringent provisions for bail like NDPS (Section 37), PMLA (Section 45), UAPA [Section 43-D(5)], Companies Act [Section 212(6)], etc.

(D) Economic offences not covered by Special Acts.

Requisite Conditions

(1) Not arrested during investigation.

(2) Cooperated throughout in the investigation including appearing before investigating officer whenever called.

(No need to forward such an accused along with the charge-sheet Siddharth v. State of U.P. [Siddharth v. State of U.P., (2022) 1 SCC 676])

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.

Category B/D

On appearance of the accused in court pursuant to process issued bail application to be decided on merits.

Category C

Same as Categories B and D with the additional condition of compliance of the provisions of bail under NDPS (Section 37), Section 45 of the PMLA, Section 212(6) of the Companies Act, Section 43-D(5) of the UAPA, Pocso, etc."

8. From the aforesaid judgment, it is clear that in cases on complaint where cognizance has been taken and summons are issued, even the Court may permit appearance through Lawyer. Further the 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. In the entire judgment, there is nothing to suggest that in a complaint case, after cognizance, any weightage is to be given to the gravity of offence under the Sections of Indian Penal Code.

9. Thus, *prima facie* I am of the opinion that the Magistrate being totally unaware of the dictum of the Hon'ble Supreme Court, has dealt with this matter. These are the cases where personal

liberty of the citizen is at stake. The Magistrate should very well be sensitized in these type of issues, specially about the judgments which relate and deal with personal liberty. It is misfortune that in spite of steps taken by Jharkhand Judicial Academy, results have not been achieved. Despite sensitization programmes, these types of orders are being passed, without application of mind and without applying the law by the Magistrates. This is unfortunate and unwarranted.

10. Be it noted that in the case of ***Arnesh Kumar Vs. State of Bihar & Anr.*** reported in ***(2014) 8 SCC 273***, at para-11.8, it has been mentioned that authorizing detention without recording reasons by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

11. In this case, in view of judgment of the Hon'ble Supreme Court in the case of ***Satender Kumar Antil*** (supra), the Magistrate could not have taken in custody on appearance.

12. Since the petitioner is praying for modification of order dated 21.04.2025 passed in this case, the petitioner is at liberty to file an application for modification of this order, which will be taken up and further order will be passed in this case.

13. List this case in the next week, under the heading "**Orders**", along with the modification application which will be filed by the petitioners.

14. Name of Mr. Jitendra Shankar Singh (*Amicus Curiae*), shall henceforth be reflected in the cause list.

15. Let a copy of this order be immediately faxed to the concerned Judicial Magistrate and the Principal District Judge,

Hazaribagh and also to the Director, Judicial Academy to impart extensive training online to this particular Judicial Magistrate at least for two days after Court hours, and sensitize the Magistrate about the judgments of the Hon'ble Supreme Court in the cases of ***Satender Kumar Antil vs. Central Bureau of Investigation & Another***, reported in ***(2021) 10 SCC 773***, ***Satender Kumar Antil vs. Central Bureau of Investigation & Another***, reported in ***2022 (10) SCC 51***, ***Satender Kumar Antil vs. Central Bureau of Investigation & Another***, reported in ***2024 (9) SCC 198*** and ***Arnesh Kumar Vs. State of Bihar & Anr.*** reported in ***(2014) 8 SCC 273***.

(ANANDA SEN, J.)

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