

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27417 of 2025

Arising Out of PS. Case No.-37 Year-2002 Thana- SIMRI BAKHTIYARPUR District-
Saharsa

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1. Bachcha Mahto @ Bachcho Mahto s/o Late Ashik Lal Mahto Village- Kanariya, PS- Kanariya (Simri Bakhtiyarpur/ Bakhtiyarpur), District- Saharsa
 2. Dulo Mahto @ Dularchand Mahto @ Dular Chandra Mahto s/o Bachcha Mahto @ Bachcho Mahto Village- Kanariya, PS- Kanariya (Simri Bakhtiyarpur/ Bakhtiyarpur), District- Saharsa
 3. Gohal Mahto s/o Bachcha Mahto @ Bachcho Mahto Village- Kanariya, PS- Kanariya (Simri Bakhtiyarpur/ Bakhtiyarpur), District- Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shailendra Kumar Singh, Adv. Mrs. Kumari Rashmi, Adv.
For the Opposite Party/s :		Mr. Deepak Kumar Singh, Adv. Mr. Umeshanand Pandit, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 07-05-2025 Heard Mr. Shailendra Kumar Singh, learned counsel
for the petitioners and Mr. Umeshanand Pandit, learned APP for
the State.

2. Petitioners seek regular bail in connection with
Simri Bakhtiyarpur P.S. Case No. 37/ 2002 dated 09.04.2002
registered for the offence(s) punishable under Section(s) 302
read with section 34 of the IPC and section 27 of the Arms Act.

3. The main submissions advanced by the petitioners'
counsel are that the FIR of the present matter was lodged in the



year 2002 for the offence of double murder and after the investigation, the petitioners were not sent up by the police but the learned Magistrate differing with police conclusion took cognizance of the alleged offences against the petitioners also in the year 2014 and thereafter, in compliance with the non-bailable warrant of arrest issued by the trial court, the petitioners were arrested suddenly on 25.12.2024 but before that, there was no service of any kind of process such as bailable warrant of arrest or summons, which would be sufficient to show that the petitioners had no information regarding the cognizance of alleged offences against them and they have been languishing in jail since 25.12.2024 having fair and clean antecedent. It is further submitted that petitioner no.1 is 75 years old person and in the order impugned, the learned trial court has not revealed any service of process issued prior to the issuance of warrant of arrest upon the petitioners.

4. Learned APP appearing for the State has opposed the bail prayer of the petitioners.

5. Considering the aforesaid submissions advanced by the petitioners' counsel and mainly petitioners' the plea that without getting the service report of the process such as bailable warrant of arrest or summons, the cognizance taking court



directly proceeded to issue non-bailable warrant against the petitioners, in my opinion, in the said circumstances, the petitioners, who were not sent up by the police, are entitled to get the relief of bail. Accordingly, let the petitioners named-above be released on bail in connection with Simri Bakhtiyarpur P.S. Case No. 37/ 2002 on furnishing bail bond of Rs.20,000/- (Rupees Twenty Thousand) each with two sureties of the like amount each to the satisfaction of the Court concerned on the following conditions:-

(i) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the trial court and shall remain physically present as directed by the trial court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the trial court.

(ii) If the petitioners tamper with the evidence or the witnesses, in that case the prosecution will be at liberty to move for cancellation of bail.

(iii) One of the bailors shall be the close relative of the petitioners who has sworn affidavit in this miscellaneous petition.

(Shailendra Singh, J)

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