

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47814 of 2025

In
CRIMINAL MISCELLANEOUS No.66572 of 2024

Arising Out of PS. Case No.-463 Year-2019 Thana- BALIYA District- Begusarai

OM PRAKASH JHA S/o- Bisheshwar Jha R/o Village- Sohijan Dih, Amma
PS - Bochahan Dist- Muzaffarpur A/P- AG-43, Sanjay Gandhi Transport
Nagar, Delhi

... .. Petitioner/s

Versus

1. The State of Bihar
2. SANJAY THAKUR (The then Area Manager, Fino Finance Pvt. Ltd.,
Baliya)S/o- Lalan Thakur R/o Village- Rajpur PO + PS- Sabour Dist-
Bhagalpur

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Chandra Shekhar Anand, Advocate
For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 22-08-2025 1. Heard learned counsel for the petitioner and Mr.
Chandra Bhushan Prasad, learned A.P.P. for the State.

2. Learned A.P.P. for the State at the outset submits
that notice under Section 35 of the BNSS has been issued to the
petitioner and the petitioner has received the notice. It is further
submitted that inadvertently warrant of arrest was sought by the
police and an application shall be filed before the learned trial
court for recalling the warrant as would manifest from the
pleadings made at para 19 of the counter affidavit filed on
behalf of the investigating officer of the case.

3. Learned A.P.P. fairly submits that the law is clear
that where offences for which an FIR has been instituted carry



punishment of seven years and less, the arrest is not automatic. Further, if the police intend to arrest an accused who is implicated in a case relating to offences which carry punishment of seven years and less in that event the police have to resort to certain procedure as incorporated in the BNSS i.e. the police first has to give notice under Section 35 of the BNSS. It is next submitted that thereafter if the police intend to arrest then the police will have to seek permission from the learned Magistrate after filling the check list.

4. Learned counsel appearing on behalf of the petitioner, at this stage, seeks permission to withdraw the modification application with liberty to file anticipatory bail application afresh, if need arises.

5. Permission is accorded.

6. Accordingly, the modification application is dismissed as withdrawn.

(Satyavrat Verma, J)

Kundan/-

U		T	
---	--	---	--

