

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47185 of 2025

Arising Out of PS. Case No.-361 Year-2024 Thana- CHAPRA TOWN District- Saran

1. Mangal Rai S/o- Late Ram Nagina Rai Village- Bara Telpa Police Station- Chapra Town District- Saran Chapra
2. Dhananjay Rai @ Dhananjay Kumar S/o- Krishna Prasad Yadav Village- Bara Telpa Police Station- Chapra Town District- Saran Chapra
3. Prince Kumar Yadav @ Prince Kumar S/o- Shambhu Prasad Yadav Village- Bara Telpa Police Station- Chapra Town District- Saran Chapra
4. Rahul Kumar S/o- Dashrath Rai @ Ramjee Rai @ Ramji Ray Village- Bara Telpa Police Station- Chapra Town District- Saran Chapra
5. Deepak Kumar S/o- Dharamnath Rai Village- Bara Telpa Police Station- Chapra Town District- Saran Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 47736 of 2025

Arising Out of PS. Case No.-361 Year-2024 Thana- CHAPRA TOWN District- Saran

1. Yogendra Prasad Yadav S/o Late Rama Prasad Yadav R/o Village- Bara Telpa Mathiya, Police station- Chapra Town, District- Saran (Chapra)
2. Tuntun Rai @ Satyedeo Prasad Yadav S/o Late Shankar Rai R/o Village- Bara Telpa Mathiya, Police station- Chapra Town, District- Saran (Chapra)
3. Raju Kumar S/o Baban Rai R/o Village- Bara Telpa Mathiya, Police station- Chapra Town, District- Saran (Chapra)
4. Dilip Kumar S/o Late Nandlal Ray R/o Village- Bara Telpa Mathiya, Police station- Chapra Town, District- Saran (Chapra)
5. Raj Kumar Rai @ Raj Kumar S/o Late Nandlal Rai R/o Village- Bara Telpa Mathiya, Police station- Chapra Town, District- Saran (Chapra)
6. Raju Rai @ Raj Kumar @ Raju Kumar S/o Birendra Rai R/o Village- Bara Telpa Mathiya, Police station- Chapra Town, District- Saran (Chapra)
7. Parmeshwar Kumar Yadav S/o Sudama Rai R/o Village- Bara Telpa Mathiya, Police station- Chapra Town, District- Saran (Chapra)
8. Sandip Kumar S/o Birendra Rai R/o Village- Bara Telpa Mathiya, Police station- Chapra Town, District- Saran (Chapra)
9. Raj Kumar Rai S/o Murali Rai R/o Village- Bara Telpa Mathiya, Police station- Chapra Town, District- Saran (Chapra)
10. Manish Kumar Yadav @ Angad Rai S/o Nawal Kishor Rai R/o Village- Bara Telpa Mathiya, Police station- Chapra Town, District- Saran (Chapra)



... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :
(In CRIMINAL MISCELLANEOUS No. 47185 of 2025)
For the Petitioner/s : Mr.Brij Kishor Mishra
For the Opposite Party/s : Ms.Rina Sinha
(In CRIMINAL MISCELLANEOUS No. 47736 of 2025)
For the Petitioner/s : Mr.Brij Kishor Mishra
For the Opposite Party/s : Mr.Uday Chand Prasad

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 03-11-2025 Both the matters have arisen in connection with

Chapra Town P.S. Case No. 361 of 2024 and, as such, the same

are being heard together and disposed of by this common order

with the consent of the parties.

2. Heard the parties.

3. The petitioners apprehend their arrest in connection

with Chapra Town P.S. Case No. 361 of 2024, registered for the

offences punishable under Sections 147, 148, 149, 323, 337,

338, 307, 504, 506 of the Indian Penal Code and 27 of the Arms

Act.

4. Based upon the written report, the prosecution

alleges that on 21.05.2024, altogether 17 named accused

persons, including the petitioners along with 100 unknown

persons, came at the place of occurrence and after taking caste

name of the informant and others started assaulting him on



account of an election dispute. It is specifically alleged that co-accused Bhola Rai and the petitioner Yogendra Rai wrapped a *gamchha* over the neck of the informant and pulled him forcibly, in the meanwhile, other accused persons armed with rifle, gun and pistol also rushed there; on noticing them the informant succeeded in fleeing away. There is allegation of indiscriminate firing and throwing bricks and stones against all the accused persons.

5. Learned Advocate for the petitioners taking this Court through the FIR contended that, with regard to an occurrence which took place on 21.05.2024, the present FIR came to be instituted on 28.05.2024. In fact, no such occurrence has taken place and only in order to save their skin from Chapra P.S. Case No. 346 of 2024, which was registered on 21.05.2024 against the persons of the informant, where two of the persons have been killed and several persons received injuries, the present FIR has been instituted, in order to show it as a defense. Even if the allegation is taken to be true, there is no whisper against the petitioners of causing any overt act. The prayer for bail of the petitioner was negated only on account of the fact that process under Section 82 of the Cr.P.C. has been issued against these petitioners. In this regard, it is submitted that time



without number, the Apex Court as well as this Court has clarified that mere issuance of process under Section 82 of the Cr.P.C. would not bar an anticipatory bail. To support the aforesaid contention, reliance has also been placed in the case of *Asha Dubey vs. The State of Madhya Pradesh [Criminal Appeal No. 4564 of 2024/SLP No. 13123 of 2024]* and further in the case of *Srikant Uypadhyay Vs. State of Bihar & Anr. [Special Leave Petition (Cri.) No. 7940 of 2023]*. Referring thereto, he further submits that mere issuance of process under Sections 82 and 83 of the Cr.P.C. does not totally foreclose the doors of justice in special circumstances.

6. On the other hand, learned Advocates for the State vehemently opposed the bail application and submitted that the materials available on record clearly suggests the participation of the petitioners in the crime; however they did not confront with the legal position as has been referred in the afore noted cases.

7. Having considered the submissions advanced by the learned Advocates for the respective parties and taking note of the unexplained delay in lodging of the FIR, coupled with the fact that none has sustained any injury, besides the mandate of the Apex Court in the case of *Asha Dubey* and *Srikant*



Upadhyay (supra) as also the decisions of this Court passed in *Cr. Misc. No. 38578 of 2025 [Veena Devi @ Venna Kumar & Anr. Vs. The State of Bihar]* and in *Cr. Misc. No. 40513 of 2025 along with its analogous cases [Priyanka Devi @ Priyanka Singh vs. The State of Bihar]*, that there is no total embargo on entertaining an application under Section 438 Cr.P.C./482 BNSS, let the petitioners abovenamed be released on bail, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Chapra, District Saran in connection with Chapra Town P.S. Case No. 361 of 2024, subject to the conditions laid down in Section 482(2) of the Bharatiya Nagrik Suraksha Sanhita, 2023, with the further condition that one of the bailors shall be the own/close family members of the petitioners.

(Harish Kumar, J)

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