

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52536 of 2025

Arising Out of PS. Case No.-205 Year-2025 Thana- GARKHA District- Saran

Shiv Nat @ Pagla Nat @ Pagal S/o Suresh Nat Resident of Village-
Jagdishpur, P.S.- Marhowra, District- Saran

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 54138 of 2025

Arising Out of PS. Case No.-205 Year-2025 Thana- GARKHA District- Saran

1. Akash Nut @ Akash Kumar S/o Late Rajesh Nut Resident of village- Olhanpur, P.S. - Marhowrah, Distt.- Saran
2. Vishnu Nut S/o Ram Ashish Nut Resident of village- Olhanpur, P.S. - Marhowrah, Distt.- Saran
3. Shamim Miya S/o Yunus Miya R/o vill - Odha, P.S.- Garkha, Distt.- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 52536 of 2025)

For the Petitioner/s : Mr. Mili Kumari, Adv.

For the Opposite Party/s : Mr. Raj Ballabh Singh, APP

(In CRIMINAL MISCELLANEOUS No. 54138 of 2025)

For the Petitioner/s : Mr. Mili Kumari, Adv.

For the Opposite Party/s : Mr. Raj Ballabh Singh, APP

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

4 28-11-2025 Both the abovementioned cases are being taken up
together as they arise from a common P.S. Case No. 205 of 2025.

Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. In the present case, the petitioners seeks bail in connection with Garkha P.S. Case No. 205 of 2025 registered for

the offences under Sections 310(2) and 311 of the Bharatiya Nyaya Sanhita, 2023.

3. The allegation in the first information report is that eight unknown persons committed theft in the house of the informant and assaulted them upon resistance.

4. Learned counsel for the petitioners submits that it would be apparent from the first information report that the FIR has been lodged against unknown and the name of the petitioners have surfaced during the course of investigation in the confessional statement of the co-accused Bhim Nut recorded in paragraph 30 of the case diary and their own confession in paragraph 31 of the case diary. It is further submitted that till date no test identification parade has been conducted and there is no other substantive evidence collected against the petitioners except for the statement of the co-accused Bhim Nut and the statement against themselves before the police which has no evidentiary value. It has also been pointed out that so far as the recovery of certain articles is concerned, the said recovery has been made from co-accused Bhim Nut as would be evident from paragraph 33 of the case diary. The petitioners have been remanded in this case on 06.05.2025.

5. Learned A.P.P. appearing for the State opposes the grant of bail.

6. It has however noticed that the bail application of the co-accused Bhim Nut has been rejected by a Co-ordinate Bench of this Court vide order dated 11.08.2025 passed in Cr. Misc. No. 49092 of 2025 but the distinguishing feature of the said case is that he is accused in six more cases of similar nature and further materials during the investigation have also revealed that recovery was made from the possession of the co-accused Bhim Nut. So far as the petitioners are concerned they have only one criminal antecedent which was lodged after the present FIR apart from petitioner no. 3 of Cr. Misc. 54138/2025, being accused in one more case and they are on bail in the said case. However, it is a noticeable concern as to why, test identification parade which is the surest and the most certain form of an identification of accused has not been conducted in the present case.

7. Taking into consideration the facts and circumstances and also considering the fact that the only material available against the petitioners is the confessional statement before police which has no evidentiary value, coupled with the fact the no test identification parade has been conducted and no recovery has been made from their possession, the petitioners are directed to be released on bail, on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties of the like amount each to the satisfaction of learned Judicial

Magistrate 1st Class, Saran, Chapra in connection with Garkha P.S.
Case No. 205 of 2025, subject to the condition laid down under
Section 480(3) of the BNSS and other following conditions:

- (i) One of the bailors will be a close relative of the petitioners.
- (ii) The petitioners will remain present on each and every date fixed by the court below, on non-appearance on two consecutive dates without reason, the court shall be at liberty to cancel the bail bonds of the petitioner.

(Soni Shrivastava, J)

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