

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65495 of 2025

Arising Out of PS. Case No.-361 Year-2025 Thana- SIKARPUR District- West Champaran

1. Harshvardhan Mishra @ Harshvardhan Kumar Mishra S/O Jaynarayan Mishra R/O Village- Koirrgawan, P.S- Shikarpur, Distt.- West Champaran.
2. Avinash Mishra @ Avinash Kumar Mishra S/O Jaynarayan Mishra R/O Village- Koirrgawan, P.S- Shikarpur, Distt.- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Aishwarya Shree, Advocate

For the Opposite Party/s : Mr. Humayou Ahmad Khan, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 17-09-2025 Heard Ms. Aishwarya Shree, learned counsel

 appearing on behalf of the petitioners and Mr. Humayou Ahmad

 Khan, learned APP for the State.

2. The petitioners seek pre-arrest bail in connection with Shikarpur P.S. Case No. 361 of 2024 registered for the offence(s) punishable under Sections 126(2), 115(2), 316(2), 318(4), 352 and 351(2) of the BNS.

3. At the outset, learned counsel appearing on behalf of the petitioners submitted that the matter be referred to the Mediation Center.

4. Learned APP, appearing on behalf of state has vehemently opposed the prayer for grant of pre-arrest bail to the



petitioners.

5. Heard the parties.

6. Considering the nature of allegation, I find that the matter can be resolved amicably outside the Court by way of mediation and the petitioners are directed to appear before the learned District Court on 14.10.2025 at 10.30am.

7. The obvious caveat being that the allegations, even if having a civil flavor to them, must *prima facie* disclose an overwhelming element of criminality. In the absence of the element of criminality, if both civil and criminal cases are allowed to continue, it will definitely amount to abuse of the process of the Court, which the Courts have always tried to prevent by putting a stop to any such criminal proceeding, where civil proceedings have already been instituted with regard to the same issue, and the element of criminality is absent.

8. In this regard, I find it apt to refer the observation made by the Apex Court in para-12 in case of ***Paramjeet Batra v. State of Uttarakhand, (2013) 11 SCC 673***, which is reproduced hereinafter:

“12. ...Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil



nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court.”(emphasis supplied)

9. In case of ***Usha Chakraborty v. State of West Bengal, (2023) 15 SCC 135***, while quashing the FIR therein and further proceedings based thereon, the Apex Court observed as under: -

‘...the factual position thus would reveal that the genesis as also the purpose of criminal proceedings are nothing but the aforesaid incident and further that the dispute involved is essentially of civil nature.’

10. The Apex Court has reiterated the aforesaid preposition in recent judgment of ***S.N. Vijayalakshmi & Ors. Vrs. The State of Karnataka and Anr.*** reported in ***(2025) SCC Online SC 1575***.

11. Learned District Court is directed to take necessary action to refer the matter before the learned mediator of the District Mediation Center.

12. Learned Mediator of the District Mediation Center concerned shall make his/her best efforts to settle the dispute amicably and thereafter submit his/her report before the concerned learned District Court, well within a period of four months. Till then, no coercive steps shall be taken against the



petitioners in connection with the aforesaid case.

13. In case of failure on the part of the petitioners to appear on 14.10.2025 at 10.30am before the learned District Court, the interim protection granted to the petitioners shall automatically lose its force and the District Court may take appropriate action in accordance with law.

14. In case, the parties fail to reconcile, then in that case, parties may avail appropriate remedy.

15. Accordingly, the present application stands disposed of.

(Purnendu Singh, J)

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