

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.60991 of 2025**

Arising Out of PS. Case No.-372 Year-2025 Thana- BHABHUA District- Kaimur (Bhabua)

Nishant Kumhar @ Banti S/o Mahendra Singh Residence of village -Amiara,  
P.S.- Kudra , District- Kaimur (Bhabhua)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Vivekanand Singh, Advocate

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA**  
**ORAL ORDER**

3      22-09-2025                      1. Heard learned counsel for the petitioner and  
learned A.P.P. for the State.

2. The petitioner apprehends his arrest in a case  
registered for the offences punishable under Sections 316(2),  
318(4) and 3(5) of the BNS.

3. Learned counsel for the petitioner at the outset  
submits that the offences for which the instant FIR was  
instituted carry punishment of seven years and less. It is further  
submitted that petitioner was called at the police station for  
receiving notice under Section 35 BNSS, on which the  
petitioner had gone to the police station for receiving the notice  
under Section 35 BNSS but his signature was obtained but then  
no notice was given to the petitioner under Section 35 BNSS. It  
is next submitted that the petitioner also requested the Station  
House Officer to give notice under Section 35 BNSS on his



WhatsApp number in support whereof screenshot of the chat details has been annexed as Annexure-3.

4. Mr. Chandra Bhushan Prasad, learned A.P.P. for the State at this stage submits that since the offences for which the instant FIR has been instituted carry punishment of seven years and less and as submitted the petitioner was called in the police station for giving notice under Section 35 BNSS but after obtaining his signature, it is submitted by the learned counsel appearing on behalf of the petitioner that notice under Section 35 BNSS was not given to the petitioner. The learned A.P.P. next submits that the police has to act in accordance with law. It is further submitted that petitioner be directed to file a representation before the concerned Superintendent of Police bringing to his notice that he has not been given notice under Section 35 BNSS and the concerned Superintendent of Police shall act in accordance with law.

5. At this stage, learned counsel appearing on behalf of the petitioner submits that Section 41 of the Cr.P.C. is akin to Section 35 of the BNSS and this Court placing reliance on the orders of the Hon'ble Supreme Court had passed a detailed order in Cr. Misc. No. 3536 of 2024 (**Naushad Ansari Vs. The State of Bihar**). It is further submitted that petitioner will file a



representation before the concerned Superintendent of Police within a period of three weeks from today bringing to his notice that notice under Section 35 BNSS has not been given to him and the Superintendent of Police shall ensure that action in accordance with law is taken and the concerned Superintendent of Police shall also ensure that the Investigating Officer of the case strictly adheres to the mandate of law enunciated with respect to offences carrying punishment of seven years and less.

6. Accordingly, the instant anticipatory bail application is disposed of.

7. The Court has gone through the supplementary affidavit provided by the learned counsel appearing on behalf of the petitioner.

8. The office is directed to trace the supplementary affidavit filed on behalf of the petitioner on 19.09.2025 and tag the same with the records of the case.

**(Satyavrat Verma, J)**

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