

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8963 of 2026

Arising Out of PS. Case No.-172 Year-2025 Thana- BADDI District- Rohtas

Nagendra Kumar Choubey @ Nagendra Choubey @ Nagendra Kumar S/O
Ram Bahadur Choubey Resident of village- Falwaria, P.O- Malwar, P.S-
Baddi, District- Rohtas Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mrs. Rashmi Jha, Adv
	:	Mr. Ujjwal Kumar Singh
For the Opposite Party/s	:	Mr. Shailendra Kr. Singh, Adv
For the Informant	:	Mr. Saroj Kr. Sharma, Adv
	:	Mr. Anupam Bahadur, Adv
	:	Mr. Vikash Kumar, Adv

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 18-03-2026 Heard the parties.

2. The accused/petitioner is named in the F.I.R. and apprehended his arrest in connection with Baddi P.S. Case No. 172 of 2025 registered for the offences punishable under Sections 126(2), 115(2), 118(1), 117(2), 109 and 3(5) of the BNS.

3. The allegation against the petitioner is to assault informant and others by using sharp edged weapon causing head and other bodily injuries with other co-accused persons having intention to cause their death.

4. Mrs. Rashmi Jha, learned counsel appearing on



behalf of the petitioner submitted that upon medical examination, injuries as alleged to be caused by this petitioner found to be caused by hard and blunt object and simple in nature, contrary to the allegation that injury was inflicted by using sharp edged weapon. It is submitted that nature of injuries primarily negates intention to cause death. It is further submitted that present occurrence took place in the background of land dispute and parties are in enmical terms as out of two criminal antecedents one case was filed by same informant, whereas petitioner is on bail in both cases.

5. Learned APP duly assisted by learned counsel for the informant, while opposing the prayer for anticipatory bail submitted that multiple injuries were caused by petitioner and other co-accused during the course of occurrence. It was submitted that injury was caused on the vital parts of the body. It is fairly conceded that process of attachment was initiated under Cr.P.C., which ought to be initiated under BNSS and further conceded also that he was not aware about the stay order granted vide order dated 13.02.2026.

6. Taking note of aforesaid submission, it is further pointed out by learned counsel for petitioner that there is no absolute bar to entertain anticipatory bail after initiation of



proceeding u/S 82 of the Cr.P.C. In support of her submission learned counsel relied upon the legal report of Hon'ble Supreme Court as available through **Srikant Upadhyay and Others Vs. State of Bihar, 2024 SCC OnLine SC 282, Asha Dubey Vs. The State of Madhya Pradesh, SLP (Crl.) 13123 of 2024** dated 12.11.2024.

7. In view of aforesaid legal position, it is submitted by Mrs. Jha that in present case FIR was lodged on 09.11.2025, whereas NBW was issued on 05.01.2026 in haste without taking note of the fact that FIR was lodged under the provisions of BNSS, proceeding of attachment was initiated under the provision 82 of Cr.P.C., which otherwise ought to be initiated under Section 84 of the BNSS and, therefore, the process which was initiated under wrong provision of law, is of no legal sanctity. In this context, it is submitted that a petition was also filed by one of the co-accused namely Ashok Kumar Chaubey before learned Trial Court, which was taken on record vide order dated 13.02.2026, wherein learned trial court accepting the petition stayed the process issued by learned trial court and as such it can be safely said that no process was initiated u/S 82 of Cr.P.C. against petitioner.

8. In view of aforesaid facts and circumstances and by



taking note of the fact as injury as alleged to be inflicted by petitioner during the course of occurrence appears simple in nature, prima-facie, negating intention to cause death coupled with fact process as initiated under Section 82 of the Cr.P.C. challenging the maintainability of anticipatory bail petition was stayed by learned trial court, as discussed aforesaid, accordingly the petitioner above named, in the event of his arrest or surrender before the learned trial court within a period of four weeks, is directed to be released on bail, furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned J.M. 1st Class, Sasaram/concerned trial court where the case is pending in connection with Baddi P.S. Case No. 172 of 2025 subject to the conditions as laid down under Section 438(2) of the Cr.P.C./ Section 482(2) of the BNSS.

(Chandra Shekhar Jha, J)

S.Tripathi/-

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

