

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24731 of 2026

Arising Out of PS. Case No.-773 Year-2025 Thana- HARSIDHI District- East Champaran

1. Wakil Sahani @ Wakil Chaudhary S/o Girja Sahani R/o Village - Baban Dhawhi, P.S - Harsidhi, District - East Champaran
2. Mukhtar Sahani S/o Girija Sahani R/o Village - Baban Dhawhi, P.S - Harsidhi, District - East Champaran
3. Girja Sahani S/o Late Sahdev Sahani R/o Village - Baban Dhawhi, P.S - Harsidhi, District - East Champaran

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Dhannjay Kumar II, Advocate

For the Opposite Party/s : Mr.Renuka Ratanakar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 23-04-2026 Heard learned counsel for the petitioners and learned APP for the State.

2. The accused-petitioners, named in the F.I.R., are apprehending their arrest in connection with Harsidhi P.S. Case No. 773 of 2025 registered for the offences punishable under Sections 126(2), 115(2), 76, 109, 303(2), 117(2), 352, 351, 3(5) of the Bhartiya Nyay Sanhita, 2023 (in short, the 'B.N.S.').

3. The allegation against the petitioners is to assault the informant and other by using rod and sharp edged weapon causing head and bodily injury with intention to cause their death. Occurrence alleged to be taken place due to previous enmity.

4. Learned counsel appearing on behalf of the petitioners



submitted that in fact the occurrence is of free-fight in nature where both parties received injuries and in fact petitioners' side received grievous injury for which he was admitted in Patna Medical College & Hospital, Patna for better treatment. It is submitted that as the occurrence was free-fight in nature, therefore, it can be safely said that petitioners were not under intention to cause death of informant and others. It is also pointed out that a case regarding same occurrence was also lodged by petitioners' side which was registered as Harsidhi P.S. Case No. 774 of 2025.

5. It is submitted that upon medical examination, the nature of injury as received by the informant and others during the course of occurrence was found simple in nature, but merely as same was found upon vital part i.e. head of the body, the anticipatory bail petition of the petitioners was rejected by the learned trial court.

6. It is submitted that to make out a *prima facie* case under section 109 of the B.N.S., only "vital part" is not required to be taken into consideration, rather several other factors are required to be taken into consideration like nature of weapon, manner of assault, body parts where assault was made, pre and post conduct of the accused/petitioners etc. In support of his



submission, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through **State of Himachal Pradesh Vs. Shamsher Singh** reported in **2026 SCC OnLine SC 807**.

7. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners.

8. In view of the aforesaid factual submissions and by taking note of the fact as the occurrence is free-fight in nature where from medical examination the nature of injury as inflicted upon the injured found simple in nature *prima facie* negating intention to cause death, accordingly, all above-named three petitioners, in the event of their arrest/surrender within a period of four weeks from this order, are directed to be enlarged on bail on furnishing of bail bond of Rs.10,000/- (ten thousand only) each with two sureties of the like amount each to the satisfaction of learned C.J.M., Mothiari, East Champaran/concerned court in connection with Harsidhi P.S. Case No. 773 of 2025, subject to the conditions as laid down under Section 438(2) of the Cr.P.C/Section 482(2) of the Bhartiya Nagarik Suraksha Sanhita (in short "B.N.S.S.").

(Chandra Shekhar Jha, J)

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