

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33791 of 2026

Arising Out of PS. Case No.-36 Year-2026 Thana- Naya Bhojpur District- Buxar

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1. Karan Paswan @ Karan Kumar Paswan S/o Manoj Paswan R/o Village and P.S. - Naya Bhojpur, Dist. - Buxar.
 2. Vikash Kumar @ Vikash Kumar Paswan S/o Vinod Paswan R/o Village and P.S. - Naya Bhojpur, Dist. - Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ravi Shankar Pathak
For the Opposite Party/s	:	Mr.Abhay Kumar
For the Informant	:	Mr. Amit Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 14-05-2026 Heard the parties.

2. Both petitioners are named in the F.I.R. and apprehending their arrest in connection with Naya Bhojpur P.S. Case No. 36 of 2026 registered for the offences punishable under Sections 126(2), 115(2), 109(1), 303(2), 351(2), 352 and 3(5) of the BNS.

3. As per FIR, both petitioners along with other co-accused persons alleged to assault son and nephew of informant, where petitioner no. 1 specifically alleged to assault on the head of the son of informant by using iron rod, whereas petitioner no. 2 specifically alleged to assault on the head of nephew of the informant by using sharp edged iron rod, where dispute arises out of previous enmities.



4. It is submitted by learned counsel appearing on behalf of the petitioners that occurrence is free fight in nature, where petitioner's side also received grievous injury on head and other bodily parts for which petitioner's side also lodged a case which has been registered as Naya Bhojpur P.S. Case No. 37 of 2026. It is submitted that as occurrence was free fight in nature, it can be safely said that petitioners were not under intention to cause death of the injured son and nephew of informant. It is further submitted that petitioner no. 1 specifically alleged to assault on the head of the son of the informant, where number of injuries upon medical examination found single and the nature was opined as simple. It is submitted that in view of non-repetition of assault and nature of injury, it can be safely said that petitioner no. 1 was not under intention to cause death of injured son of informant.

5. Arguing further, it is submitted that same is the condition of the petitioner no. 2 who specifically alleged to assault using sharp edged iron rod on the head of the nephew of informant namely Munib Chaudhary, but upon medical examination two lacerated wound was found, where one was found grievous in nature. It is submitted that in view of allegations as assault was made by sharp edged iron rod



probability of injuries is of incised wound, but it is lacerated, which creates a doubt *qua* allegation on its face. It also not got supported even in terms of allegations as there is no allegations of repeated assault against petitioner no. 2, but the medical finding suggest that two lacerated wound was available on the head region of the nephew of the informant. In this context, it is also submitted that the nephew of informant also alleged to be assaulted by several persons and, therefore, these injuries not attributed specifically to petitioner no. 2.

6. Arguing further, it is submitted that merely on the nature of injury it cannot be said that petitioners were under intention to cause death as several factors are required to constitute a *prima-facie* case for the offence punishable under Section 109(1) of the BNSS like; manner of assault, body part where assault was made, weapon which was used to cause injury, pre-post conduct of the accused person 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. Shamsheer Singh, [2025 SCC OnLine 807]**. While concluding the arguments, it is submitted that above named petitioners are of clean antecedents.

7. Learned APP duly assisted by learned counsel for



the informant while opposing the prayer of bail submitted that injury of injured Munib Chaudhary upon medical examination found grievous in nature, who also assaulted by petitioner no. 2, whereas he could not dispute that the occurrence was free fight in nature and assault was specifically alleged to be caused by sharp edged weapon, in terms of FIR.

8. In view of aforesaid factual and legal submission and by taking note of overall nature of injuries, manner of occurrence, which prima-facie appears free fight in nature, coupled with the fact as petitioners are men of clean antecedent, accordingly both above-named petitioners, in the event of their arrest or surrender before the court below within a period of four weeks, are 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 CJM, Buxar/concerned Court, where the case is pending in connection with Naya Bhojpur P.S. Case No. 36 of 2026, subject to the conditions as laid down under Section 438(2) of the Cr.P.C/Section 482(2) of BNSS.

(Chandra Shekhar Jha, J.)

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