

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40201 of 2026

Arising Out of PS. Case No.-84 Year-2026 Thana- CHANDAUTI District- Gaya

1. Md. Shamsheer Son of Late Md. Sohrat Resident of village and Po-
Molvichak, Ps- Chandauti, Dist- Gaya
2. Md. Mustak @ Fotu son of Late Md. Mustafa Resident of village and Po-
Molvichak, Ps- Chandauti, Dist- Gaya
3. Md. seraj @ Md. Siraj Son of Md. Minhaj Resident of village and Po-
Molvichak, Ps- Chandauti, Dist- Gaya
4. Md. Meraj son of Md. Minhaj Resident of village and Po- Molvichak, Ps-
Chandauti, Dist- Gaya
5. Md. Aakil son of Md. Yunush Resident of village and Po- Molvichak, Ps-
Chandauti, Dist- Gaya
6. Md. Yunush Son of Late Md. Allauddin Resident of village and Po-
Molvichak, Ps- Chandauti, Dist- Gaya

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Pratik Kumar, Advocate
For the Opposite Party/s	:	Mr.Shailendra Kumar, APP
For the Informant	:	Ms.Runa, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 23-06-2026 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 Chandauti P.S. Case No. 84 of 2026 registered for the offences punishable under Sections 191(2), 191(3), 127(1), 115(2), 117(2), 109, 74, 303(2), 351(2), 352 & 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 others during course of occurrence by using iron road causing head and bodily injury, having intention to cause their death, where occurrence is alleged to be arising out of land dispute.

4. Learned counsel appearing on behalf of the petitioners submitted that occurrence was free-fight in nature where both parties received injury and, therefore, it can be safely said that petitioners were not under intention to cause death of the injured informant and other injured persons. It is pointed out that for same set of occurrence, petitioners had also lodged a case against the informant and others, which has been registered as Chandauti P.S. Case No. 86/2026. It is submitted that the three persons of petitioners' side received grievous injuries, despite of same, the informant's side in Chandauti P.S. Case No. 86/2026 as lodged by petitioners' side, was granted anticipatory bail by learned trial court itself.

5. Arguing further, it is submitted that as the injury alleged caused upon head of one of the injured, which is the vital part of the body and one of the injured received grievous injury as his wrist found fractured, the prayer of anticipatory bail of petitioners were rejected by the learned trial court, which is not the correct position of law, as only nature of injury is not



the consideration to constitute an offence under section 109 of the B.N.S. rather several factors are required to be taken into consideration as nature of weapon, nature of injuries, manner of assault, body parts where assault was made, pre and post conduct of the accused etc. and, 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 **2025 SCC OnLine SC 807**.

6. While concluding argument, it is submitted by learned counsel that occurrence took place in the background of land dispute, where all petitioners claimed clean antecedent.

7. Learned A.P.P. for the State duly assisted by learned counsel appearing for the informant, while opposing the prayer for anticipatory bail of the petitioners, submitted that the assault, as alleged, was made on the vital part of the informant and others during course of occurrence, where one of the injured, received grievous injury, fairly conceded that occurrence was free-fight in nature, which arises out of land dispute.

8. In view of the aforesaid factual submissions and by taking note of the fact as *prima facie* occurrence was free-fight in nature, where nature of injury on injured persons are simple in nature, except one which found upon non-vital part of the



body *prima facie* negating intention to cause death, where the occurrence alleged to be taken place in the background of land dispute, accordingly, all six above-named 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) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gaya Ji/concerned court in connection with Chandauti P.S. Case No. 84 of 2026, 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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