

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38763 of 2026

Arising Out of PS. Case No.-173 Year-2026 Thana- LAKHISARAI District- Lakhisarai

1. Arbind Yadav, S/O Late Rajbanshi Yadav
2. Rakesh Kumar, S/o Arbind Yadav
Both are Resident of village - Gadhi Vishanpur ,P.S and District - Lakhisarai
... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Md. Ataur Rahman, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL ORDER

2 17-06-2026 Heard Mr. Rudal Singh, learned counsel appearing
on behalf of the petitioners and Mr. Md. Ataur Rahman, learned
APP for the State.

2. The petitioners seek pre-arrest bail in connection
with Lakhisarai P.S. Case No. 173 of 2026 registered for the
offence(s) punishable under Sections 115(2), 126(2), 118(1),
109, 303(2) and 3(5) of the BNS.

3. As per the allegation made in the FIR, the accused
persons named therein including the petitioners had assaulted
the informant causing injury.

4. At the outset, learned counsel appearing on behalf
of the petitioners submitted that specific statement has been
made in paragraph no.14 of the bail petition that the matter has
been compromised between the parties with the intervention of
well-wishers, relatives and local people of the village. The



compromise petition has been brought on record by way of Annexure-P/3. It has further been informed that the parties have agreed to file a joint compromise petition before the learned District Court concerned.

5. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail, however, supports the factum of compromise.

6. Considering the aforesaid information given by the petitioners, I find it apt to reproduce the observations made by the Apex Court in para-11 to 20 in case of **Naushey Ali & Ors. Vs. State of Uttar Pradesh & Anr.** reported in **(2025) 4 SCC 78**, which are as under:

*“11. Before we apply this judgment to the facts, it will be worthwhile to recall the observations of Sikri, J. in **Narinder Singh (supra)**:-*

"26. Having said so, we would hasten to add that though it is a serious offence as the accused person(s) attempted to take the life of another person/victim, at the same time the court cannot be oblivious to hard realities that many times whenever there is a quarrel between the parties leading to physical commotion and sustaining of injury by either or both the parties, there is a tendency to give it a slant of an offence under Section 307 IPC as well..."

(Emphasis supplied)

*12. Coming back to **Laxmi Narayan (supra)**, this Court has held that mere mention of Section 307 IPC in the FIR or the charge-sheet should not be the basis for adopting a hands-off approach. It has further held that it would be open for the court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or whether there is*



evidence to back it. It has been held that the courts may go by the nature of injuries sustained; as to whether the injuries are inflicted on the vital/delicate parts of the body and the nature of weapon used. It has also been clarified that such an exercise would be permissible after investigation and filing of chargesheet/framing of charges or during the trial. [See 15.4 of Laxmi Narayan (supra)].

13. Coming to the facts of the case, admittedly, there is a settlement between the parties. The case filed by the appellants' party which was prior in point of time and that too on the same day of occurrence, has been settled.

14. It should be recalled that, at the outset, after investigation, the police actually closed the case in its final report of 07.09.1991. It was the trial Court, which by its order of 05.09.1992, refused to accept the same and summoned the appellants. The incident is of 11.08.1991, i.e. about 33½ years back. No doubt, there is a reference to the firing in the FIR but admittedly there was no injury. The allegation is that firing was done by Abdul Waris. He is since deceased. The facts, assuming to be true, also do not make out a case of common object for the appellants under Section 149 IPC insofar as the offence of Section 307 is concerned.

15. The role attributed to the seven members, including the five appellants is not specific. General allegation was that they abused in filthy language and assaulted Mahmood with lathi and iron bars. The specific individual role was only attributed to Adbul Waris, who is since deceased.

16. In any event, the police who investigated disbelieved the entire story. No recoveries have been made of any pellets. What engaged the attention of the High Court was only the fracture of the head of the distal phalanx of left finger of respondent No.2.

17. We have seen the injuries sustained by Mahmood (R-2) from the medical evidence collected. From the injury report, it is clear that while the first four injuries were contusions and abrasions, injury Nos. 5, 6 and 7 pertained to incised lacerated wound and swelling on the middle finger of the left hand. We have also seen the x-ray report which shows that in the left hand there was a fracture of the head of distal phalanx of left ring finger. Assuming that this was the result of injury with lathis or iron bar; applying the test in Laxmi Narayan (supra), considering the injury and the



nature of the weapon used, certainly no offence under Section 307 IPC is made out.

18. Section 307 of IPC reads as under:-

"307. Attempt to murder.-

Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.

Attempts by life convicts.- When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death."

19. Keeping in mind the surrounding circumstances, the nature of the weapon and the nature of the injury, on facts, we are inclined to conclude that the overt act attributed to the appellants does not bring the case within the four corners of the Section 307 of IPC, either on a stand-alone basis or as held above with the aid of Section 149 of IPC.

20. We are also inclined to conclude that considering the overall circumstances, the nature of the weapon and the nature of the injury (fracture of the head of distal phalanx of left ring finger), the offence alleged, on facts, does not fall in that category of cases where the court should deny relief in the event of a settlement. At the highest, the offence alleged could be one under Section 326 of IPC. It could not be said, on facts, considering all the circumstances that this is a crime which has such an harmful effect on the public and that it has the effect of seriously threatening the well-being of the society. We make it clear that we are saying so on the facts of the present case. We are also firmly of the opinion that proceeding with the trial, when parties have amicably resolved the dispute in the present case, would be futile and the ends of justice require that the settlement be given effect to by quashing the proceedings. It would be a grave abuse of process to let this trial remain pending under the above circumstances, particularly when the dispute is settled and resolved."

7. In light of the law laid down by the Apex Court as



referred above and considering that the parties have already settled the dispute and they are willing to file a joint compromise petition before the learned District Court, the petitioners, named above, are directed to be released **provisionally** on such terms and conditions as the learned District Court deems it fit and proper.

8. In the event a joint compromise petition is filed by both parties and no further complaint is made by either side for a further period of six months, thereafter, the provisional bail granted to the petitioners shall be made absolute by the learned District Court on such terms and conditions as the learned District Court deems it fit and proper.

9. In case of failure on part of the informant/complainant, the learned District Court is directed to make the provisional bail absolute, or it is, otherwise, on the part of the petitioner then the interim relief granted to the petitioner shall lose its force and the learned trial Court may proceed with trial in accordance with law.

10. The bail applications stand disposed of.

(Purnendu Singh, J)

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