

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42163 of 2026

Arising Out of PS. Case No.-100 Year-2026 Thana- SONEPUR District- Saran

Atul Kumar S/O Praveen Singh @ Rakesh Singh @ Pravin Kumar R/o-
Village - Murthan, P.S.- Sonepur, District- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anjani Parashar

For the Opposite Party/s : Mr. Tapeswar Sharma

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 02-07-2026

Heard the parties.

2. The petitioner is named in the F.I.R. and apprehending his arrest in connection with Sonepur P.S. Case No. 100 of 2026 registered for the offences punishable under Sections 126(2), 115(2), 109, 118(2), 352, 351(2), 3(5) of BNS.

3. As per FIR informant alleged petitioner to made an attempt to kidnap his son and so he tried to pull him inside the vehicle, bearing registration no. BR 01 FP 4309 and when the act of petitioner and co-accused persons was objected, petitioner inflicted knife injury upon son of the informant causing head injury. All present accused persons including petitioner alleged to equipped with fire arm and further alleged to open fire in air to



ensure their escape from the place of occurrence.

4. It is submitted by learned counsel appearing on behalf of the petitioner that prior to lodging this case one criminal case was lodged by grandmother of the petitioner against informant and others which has been registered as Sonapur P.S. Case No. 94 of 2026 on 01.02.2026 and in retaliation of same present case was lodged on 03.02.2026, where the date and time of occurrence also appears same and, therefore, it can be said safely that present occurrence is a free fight between the parties, where both parties received injuries during the occurrence. It is submitted that petitioner side also received injury during occurrence but their injuries not appears explained through present FIR.

5. Arguing further, it is submitted that to make out a case under Section 109 of BNS, the prime consideration is "intention to cause death" which can be gathered from several factors like nature of weapon, manner of assault, body part where the assault was made, nature of injuries, conduct of accused person during the occurrence etc., and merely on the ground of nature of injuries and body part it can not be gathered safely that the accused person/ petitioner was under intention to cause death of the injured son of the informant. 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*** reported in ***2025 INSC 503***.

6. Arguing further, it is submitted by learned counsel for the petitioner that the face of FIR categorically speaks that all accused persons were present at the place of occurrence and were equipped with fire arm which was used for air firing to ensure their escape from the place of occurrence. It is submitted that having all occasion to fire upon the son of the informant, no such allegation was raised by the informant, which is sufficient to gather that the petitioner was not under intention to cause death of the son of the informant. It is also submitted that injury is single not repeated without having any intervening circumstances and therefore, it further suggest that the intention to cause death was absent. Petitioner claimed clean antecedent.

7. Learned APP duly assisted by learned counsel for the informant while opposing the prayer of bail submitted that alleged injury upon the son of the informant was specifically caused by this petitioner which found on his head and same found grievous upon medical examination, however, he conceded that the number of injury was one and no repeated assault was made. It is also conceded that the allegation of firing is not



available against any of the co-accused person including petitioner, despite pressing fire arms.

8. In view of aforesaid factual submission and by taking note of fact as occurrence was free fight in nature where both parties received injuries during the occurrence, coupled with the fact that petitioner alleged to equipped with fire arms but not choose to open fire upon the injured having all occasion in his favor which *prima-facie* negate his intention to cause death of the son of the informant as alleged, accordingly petitioner above-named who is a man of clean antecedent, in the event of his arrest or surrender before the court below within a period of four weeks, is directed to be released on bail, furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned CJM, Saran at Chapra /concerned Court, where the case is pending in connection with Sonapur P.S. Case No. 100 of 2026, subject to the conditions as laid down under Section 482(2) of BNSS.

(Chandra Shekhar Jha, J)

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