

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40926 of 2026

Arising Out of PS. Case No.-449 Year-2025 Thana- BARACHATTI District- Gaya

1. Nagendra Prasad @ Nagendra Prasad Gupta Son of Late Khaderan Saw Resident of Village -Gajragarh PS -Barachatti Dist -Gaya
2. Sagar Kumar @ Sagar Kumar Gupta Son of Nagendra Prasad @ Nagendra Prasad Gupta Resident of Village -Gajragarh PS -Barachatti Dist -Gaya

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Vijay Kumar, Advocate

For the Opposite Party/s : Mr.Uma Shankar Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 25-06-2026 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 Barachatti P.S. Case No. 449 of 2025 registered for the offences punishable under Sections 126(2), 115, 109, 303(2), 352 & 3(5) of the Bhartiya Nyay Sanhita, 2023 (in short, the 'B.N.S.').

3. As per FIR, petitioners alleged to assault the informant causing head injury, having intention to cause his death, where occurrence alleged to be arising out of previous enmity related with certain monetary dispute.

4. Learned counsel appearing on behalf of the petitioners submitted that allegation of assault is not available against petitioner no. 1, rather allegation is only to instigate petitioner no. 2 during the occurrence.



5. It is further argued by learned counsel that assault as alleged to be caused by petitioner no. 2 not appears repeated without having any intervening circumstances but fairly conceded that it was on the vital part of the body but the nature of injury, upon medical examination, found simple in nature and, for all such reasons, it cannot be said that petitioners were under intention to cause death.

6. It is submitted that to make out a *prima facie* case for the offence punishable under section 109 of the B.N.S., several factors are required to be taken into consideration as nature of weapon, manner of assault, nature of injury, body parts where assault was made, pre and post conduct of the accused 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 **2025 SCC OnLine SC 807**.

7. It is submitted that the monetary dispute which was the root cause for the occurrence, now appears compromised between the parties and now good sense prevailed amongst parties. In support of his submission, learned counsel referred **Annexure '2'** of the present anticipatory bail petition. While concluding argument, learned counsel submitted that petitioners



are men of clean antecedent.

8. Learned A.P.P. for the State, while opposing the prayer for anticipatory bail of the petitioners, submitted that the assault was made on the vital part of the body.

9. In view of the aforesaid factual submissions and by taking note of the fact as the assault *prima facie* not appears made repeated without having any intervening circumspection, where nature of injury also appears simple, accordingly, both above-named petitioners, who are men of clean antecedent, 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 A.C.J.M.-II, Sherghati at Gaya/concerned court, in connection with Barachatti P.S. Case No. 449 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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