

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41818 of 2026

Arising Out of PS. Case No.-130 Year-2026 Thana- MOTIHARI MUFASIL District- East
Champaran

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1. Ashok Yadav @ Ashok Kumar Son of Late Hirdayanarayan Rai
 2. Vinod Yadav @ Vinod Kumar son of Late Hirdayanarayan Rai
 3. Ripu Kumar Son of Nawalkishor Rai
 4. Lalan Yadav @ Lalan Prasad yadav son of Late Shivji Rai
 5. Rajesh Yadav son of Bharat Rai
- All are resident of village- Kataha, Ward no. 4, P.S.- Muffasil, Dist- East
Champaran

... .. Petitioners

Versus

1. The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Abhishek Kumar, Advocate
For the Opposite Party/s	:	Mr. Umeshanand Pandit, APP
For the Informant	:	Mr. Rajesh Ranjan, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 30-06-2026 Heard learned counsel for the petitioners and

learned Additional Public Prosecutor for the State.

2. The accused/petitioners are named in the FIR

and apprehending their arrest in connection with Muffasil P.S.

Case No.130 of 2026 registered under Sections 126(2),

115(2), 118(1), 109, 303(2), 352 read with 3(5) of the

Bhartiya Nyaya Sanhita, 2023 (in short 'BNS').

3. As per FIR, the petitioners alleged to assault the

informant by using iron rod and lathi during occurrence,

causing head and bodily injuries, having intention to cause



death, where occurrence alleged to be arising out of previous enmity.

4. It is submitted by learned counsel appearing for the petitioners that the occurrence was free fight in nature, where both parties received injuries and for same set of occurrence, petitioners' side also lodged Muffasil P.S. Case No. 129 of 2026. It is submitted that the case of petitioners was lodged before lodging this case and to counter the case of petitioners, the present case was lodged as an afterthought. It is further submitted that the nature of injuries upon medical examination found simple in nature and moreover, petitioner no.1 to 4 are men of clean antecedent, whereas petitioner no.5 involved in two more criminal cases, where he is on bail.

5. Learned APP duly assisted by learned counsel appearing for the informant while opposing the prayer of bail submitted that the specific allegation qua repeated assault by using knife upon informant is available against petitioner no.1, though nature of injuries found simple. It is submitted that the nature of injury is not the only criteria to make out a case under Section 109 of the BNS, rather several factors are



taken to be consideration like nature of weapon, manner of assault, conduct of the accused persons during the occurrence. In support of his submission, learned counsel has relied upon legal report of Hon'ble Supreme Court as available through **State of Himachal Pradesh vs. Shamsher Singh [2025 SCC OnLine SC 807]**. It is submitted that petitioner no.5 namely, Rajesh Yadav is a man of criminal antecedent and he found involved in two more criminal cases of heinous nature where one was lodged under NDPS Act and another case was lodged under Section 302 of the IPC. It is also pointed out by learned counsel appearing for informant that petitioner no.5 supplied knife to petitioner no.1 during the occurrence. It is conceded that injury of *lathi* as alleged to be caused by petitioner no.3 is not available from injury report.

6. In view of aforesaid factual submissions and by taking note of fact, as petitioner no.1 alleged to assault repeatedly by using knife to the informant, which appears corroborating with injury report and as petitioner no.5 who supplied knife to petitioner no.1 and man of criminal antecedents, as discussed aforesaid, accordingly, the prayer



of anticipatory bail of petitioner no.1 namely, Ashok Yadav @ Ashok Kumar and petitioner no.5 namely, Rajesh Yadav stands rejected.

7. As allegation of assault *prima facie* not available against petitioner nos.2, 3 and 4, accordingly, their prayer of anticipatory bail is allowed and petitioner no.2 namely, Vinod Yadav @ Vinod Kumar, petitioner no.3 namely, Ripu Kumar and petitioner no.4 namely, Lalan Yadav @ Lalan Prasad Yadav, in the event of their arrest or surrender in the court below within a period of four weeks, are directed to be released on bail, on 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 Chief Judicial Magistrate, East Champaran, Motihari in connection with Muffasil P.S. Case No.130 of 2026, subject to the conditions as laid down under Section 438(2) of the CrPC/under Section 482(2) of the BNSS.

(Chandra Shekhar Jha, J.)

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