

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47285 of 2026

Arising Out of PS. Case No.-34 Year-2026 Thana- BARHARIA District- Siwan

1. Hanif Miyan @ Md. Hanif S/o Nabi Hassan Miyan R/o Village - Madhopur, P.S - Barharia, District - Siwan
2. Munib Miyan @ Munib Ahmad S/o Nabi Hassan Miyan R/o Village - Madhopur, P.S - Barharia, District - Siwan
3. Jalil Miyan @ Jalil Ahmad S/o Nabi Hassan Miyan R/o Village - Madhopur, P.S - Barharia, District - Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agarwal, Senior Advocate
		Mr. Amir Alam, Advocate
		Mr. Suresh Kumar, Advocate
For the Opposite Party/s :		Md. Matloob Rab, APP

CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL ORDER

2 22-07-2026 Heard the learned counsel for the petitioners and
the learned APP appearing on behalf of the State.

2. The petitioners apprehend their arrest in connection with Barharia P.S. Case No. 34 of 2026, registered under Sections 318(2), 336(4), 338, 3(5) of B.N.S.

3. As per the prosecution story, which has been lodged on the basis of the written report submitted by the informant, who happens to be the Circle Officer, Barharia, to the effect that the land bearing Khata No. 221, Khesra No. 1048 having an area of 0-3 katha and which is recorded as Gairmazarua Malik has been given on rent by the petitioners



herein in favour of Alim Ahmad Waseem on 20.09.2011 by a registered rent agreement executed at District Registration Office at Siwan Sadar, which is not correct and amounts to illegal use of government land.

4. The learned senior counsel for the petitioners submits that the petitioners are innocent and the true fact is that one Syed Azad Ahmad who is a co-villager of the petitioners, applied for B.P.C.L. Petrol Pump, wherein after enquiry it was found that the proposed Petrol Pump will be only 90 meters away from Sheeba Petrol Pump. As per the norms, a Petrol Pump can be opened at a distance of 300 meters from another Petrol Pump and therefore the NOC was not granted. Thereafter in connivance with the Circle Officer, the said Syed Azad Ahmad has got lodged the present FIR. He further submits that although the land was given on rent in 2011 but the FIR has been lodged in 2026. Further on an application submitted under the Right to Information Act by Alim Ahmad Waseem, it has been informed by the Additional Collector, Land Reforms, Siwan Sadar that the land in question was settled by the Circle Officer, Barhariya vide Settlement Case No. 01 of 2012 and Jamabandi No. 189 was created in favour of the petitioners. He further submits that for the same land, a Title Suit bearing Title Suit No. 1712 of



2025, has been filed and the same is pending before the Court of learned Additional Civil Judge (Senior Division)- VII, Siwan, wherein vide order dated 22.01.2026, the learned Additional Civil Judge has directed for maintaining the status quo. The learned senior counsel for the petitioners further submits that the owner of the Petrol Pump namely, Alim Ahmad Waseem filed a writ petition bearing C.W.J.C. No. 978 of 2026. The matter was heard by a Hon'ble Single Judge of this Court and vide order dated 17.02.2026, the Hon'ble Single Judge while directing the State respondents to file their counter affidavit, further directed that the operation of the order dated 29.01.2026 passed by the District Magistrate, whereby the NOC granted in favour of the owner of the Petrol Pump was cancelled, shall remain stayed. The learned senior counsel for the petitioners further submits that co-accused Alim Ahmad Waseem has been granted the privilege of anticipatory bail by a Hon'ble Single Judge of this Court vide order dated 09.07.2026 passed in Criminal Miscellaneous No. 45210 of 2026.

5. *Per contra*, the leaned APP appearing on behalf of the State opposes the prayer for bail of the petitioners and submits that the petitioners have illegally given the land of the State government on rent.



6. Considering the rival submissions and after going through the record, it appears that a FIR was lodged on the basis of the written report submitted by the Circle Officer, Barhariya, with regard to giving on rent a land recorded as Gairmazarua Malik in 2011. On the said land a Petrol Pump was established and recently an application under Right to Information Act was filed with regard to the status of the land in question, then the office of the Additional Collector, Land Reforms, Siwan Sadar submitted an information, on the basis of the detailed enquiry dated 24.04.2025, that the land in question was settled by the Circle Officer, Barhariya vide Settlement Case No. 01 of 2012 and pursuant thereto Jamabandi No. 189 was created in favour of the petitioners. Further one of the co-accused namely Alim Ahmad Waseem has been granted the privilege of anticipatory bail by a learned Co-ordinate Bench of this Court vide order dated 09.07.2026 passed in Criminal Miscellaneous No. 45210 of 2026 and further the petitioners have got a clean antecedent. Considering the above, let the above named petitioners, in the event of their arrest or surrender within a period of six weeks, be released on anticipatory bail in connection with Barhariya P.S. Case no. 34 of 2026, on each of them 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 Additional Judicial Magistrate-III, Siwan, subject to the condition laid down under Section 482(2) of the B.N.S.S., and subject to the following condition:-

(I) That the learned court concerned shall verify the criminal antecedent of the petitioners and in case at any stage, it is found that the petitioners have concealed their criminal antecedent, the court concerned shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Ritesh Kumar, J)

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