

In the Court of Addl. Sessions Judge, Manjhaul (Begusarai)
B.A No-249/2026
Cheriyabariyarpur P.S. Case No- 15/2026

In the matter of :

Jitendra Sahni @ Jeetu Sahni, aged about-20 yrs, s/o- Kamdev Sahni
R/o-vill + P.S.- Cheriyabariyarpur, District- Begusarai

Vs.

State of Bihar

Ld. counsel for the petitioner: Sri Abhishek Kumar, Id. Adv

Ld. counsel for the State: Sri Rakesh Kumar, Id. A.P.P.

Date of Order- 09th March, 2026

Present:-
Sanjay Kumar Singh
Addl Sessions Judge,
Subdivisional Civil Court,
Manjhaul, Begusarai

1. The petitioner Jitendra Sahni @ Jeetu Sahni seeks regular bail in connection with Cheriyabariyarpur P.S. Case No-15/2026 registered for the offences punishable under sections 126(2), 115(2), 352, 109(1), 3(5) of BNS & 27 Arms Act. The copy of same has been served to the Ld. APP for state. Ld. counsels for the parties have been exhaustively heard.

2. The brief case of the prosecution is in written report of one Sonu Kumar who stated that on 23.09.2025 at about 07.00 am petitioner along with other co-accused abused and assaulted informant. Accused Suraj Kumar Sahni took out pistol from his waist and fired in air, when villagers chased him, he fled leaving bullet shell there.

3. Learned counsel for the petitioner submitted that the accused petitioner is quite innocent and he has committed no such offence. No anticipatory bail or regular bail petition has ever been filed by the petitioner before this Hon'ble Court or before any higher court in connection with the present case, and the present petition is the first regular bail application before this Hon'ble Court. The petitioner has one criminal antecedent. The petitioner is in judicial custody since 28.01.2026. The earlier regular bail petition of the petitioner was rejected by the Id. A.C.J.M., Manjhaul by order dt. 05.02.2026. Even according to the

prosecution narrative, the alleged firing was done towards sky, i.e, air firing and not aimed at the informant or any other person and no individual sustained any firearm injury in the said occurrence. No medical report indicating any gunshot injury has been produced, nor has any injury attributable to firearm been alleged in the FIR or subsequent materials. No specific overt act of firing, use, possession or handling of any firearm has been attributed to the present petitioner and the allegation of firing is exclusively against the co-accused. It is a settled principle of law as laid down by the Hon'ble Supreme Court in Sarju Prasad Vs. State of Bihar, AIR 1965 SC 843 that intention or knowledge to cause death is sine qua non for constituting attempt to murder, and mere commission of an act without the requisite mensrea does not attract the offence. The Hon'ble Supreme Court in State of Maharashtra Vs. Kashirao (2003) 10 SCC 434 has further held that firing without targeting and without causing injury does not automatically amount to attempt to murder unless intention to kill is clearly established. In view of the admitted allegation of air-firing without injury, the essential ingredients of Section 109(1) BNS relating to attempt to murder are prima facie absent against the petitioner. No firearm or ammunition has been recovered from the conscious possession of the petitioner, and there is no allegation that the petitioner used or handled any firearm during the alleged occurrence, and therefore the essential ingredients of Section 27 of the Arms Act are not attracted against him. The addition of Sections 109(1) BNS and 27 Arms Act appears to be mechanical and without factual foundation, intended only to give colour of gravity to the case. The petitioner is a young man aged about 20 years having permanent residence within the jurisdiction of the Court and has deep social roots, and there is no likelihood of his absconding, influencing witnesses, or tampering with evidence. The investigation does not require further custodial interrogation of the petitioner, and continued detention would amount to pre-trial punishment and would be violative of the mandate of Article 21 of the Constitution of India. It is a settled principle of criminal jurisprudence that bail is the rule and jail is the exception, particularly where no injury has been caused and no specific overt act is attributed to the accused. On these grounds the Id. counsel prays that the petitioner be admitted to regular bail.

4. Learned counsel for the state opposed the prayer of regular bail to the petitioner.

*P.O-Sanjay Kumar Singh,
(Addl.S.J., Manjhaul)
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5. Heard Ld. counsels and perused the case record. At the outset it be mentioned that the case diary was called for and the same have been annexed with the record for perusal. On perusal of FIR, case diary and other material available on judicial record the case has been registered u/s- 126(2), 115(2), 352, 109(1), 3(5) of BNS & 27 Arms Act against the petitioner along with other accused persons. The petitioner is named in FIR but there is no any specific allegation against him. Allegation of firing is against co-accused Suraj Kumar Sahni who is not petitioner here. As per para- 05 & 51 of case diary no one injured in this case. The accused petitioner is in custody since 28.01.2026. Hence, considering the period of custody as well as facts and circumstances of the case, I am of the opinion that the petitioner deserves bail. Thus, the petition stands allowed, the petitioner is directed to release on bail on furnishing bail bond of Rs. 10,000/-with two sureties of the like amount each to the satisfaction of Id. Court below with condition that the petitioner shall extend his complete cooperation in the ensuing investigation and shall not misuse his liberty nor tamper with evidence or influence the witnesses.

The observation made in the present bail order is only for the purpose of deciding present petition and will not affect the factual matrix of the trial of the present case.

Dictated

**Sanjay Kumar Singh
Addl. S.J., Manjhaul**

Date of Judgment / Order	09.03.2026
Date of Reserving Judgment / Order	09.03.2026
Uploading Date	10.03.2026
Uploaded by	Md. Zeeshan Ali Ahmad