

ORDER

08.06.2026

All four accused persons are represented u/S 317 of the Cr.P.C. which is accepted only for today. Record is fixed for order on a petition dated 12.05.2026 filed on behalf of all four accused persons u/S 228(1) of the Cr.P.C. for their discharge from Section 308 of the I.P.C. which is orally opposed by the learned Addl. P.P..

By filing the instant petition the learned counsel for the accused petitioners prays to discharge them from Section 308 of the I.P.C. on the ground that injured Upendra Mandal has sustained fracture injury in left scapula and injured Jyotish Kumar has sustained simple injury. He further submitted that both parties are closely related and there is case and counter case between the parties which is vehemently opposed by the learned Addl. P.P. on the ground that there are sufficient materials in the case diary to frame charge u/S 308 alongwith other Sections of the I.P.C. against all the accused persons.

Heard both sides and perused the record from which it transpires that instant FIR has been lodged on the strength of written report of informant in which it is alleged, in short, that on 26.07.2022 at about 04:00 pm three accused persons namely Kailash Mandal, Mukesh Mandal and Mithilesh Mandal abused informant's son Jyotish Kumar and told him not to tie cattle in his cattleshed and on refusal, accused Kailash Mandal and Mukesh Mandal inflicted lathi and bhala blow on his head causing bleeding injuries. When informant and her husband reached there, on hearing alarm, rest named accused persons brutally assaulted them by means of lathi, bhala and bricks causing fracture injury to informant's husband. It is lastly alleged that the accused Mithilesh Mandal snatched away a wearing gold locket from informant's son.

On the basis of the said written report, the police registered the case vide Sabour P.S. Case No. 304/2022 u/Ss 341, 323, 325, 307, 504,

379, 147, 148, 149 of the I.P.C. against all the eight named accused persons and proceeded with the investigation. The I.O., after completion of investigation, submitted chargesheet against only four accused persons namely 1. Kailash Mandal 2. Mukesh Mandal 3. Reena Devi and 4. Rubi Devi (petitioners) finding the accusations true for the offences punishable u/Ss 341, 323, 325, 308, 504, 34 of the I.P.C. and gave clean chit to rest four named accused persons. The learned Court below, agreeing with the police report, took cognizance accordingly vide order dated 06.01.2024.

At the stage of framing of charge, the court is not to see whether there is sufficient ground for conviction of the accused or whether the trial is sure to end in conviction. The standard of test and judgment which is to be finally applied before recording finding regarding the guilt or otherwise of the accused is not exactly to be applied at the stage of deciding the matter u/S 227 or u/S 228 of the Cr.P.C. Reading Sections 227 and 228 of the Cr.P.C. together, it would be clear that at the beginning and initial stage of trial the truth, veracity and effect of the evidence which the prosecutor proposes to adduce are not to be meticulously judged. Nor is any weight to be attached to the probable defence of the accused.

Reverting back to the case at hands, this Court finds sufficient materials to frame charge under Section 308 alongwith other Sections of the I.P.C. against the accused petitioners in this case. As per F.I.R., specific allegation of inflicting lathi and bhala blow on the head of informant's son Jyotish Kumar causing bleeding injuries is levelled against accused petitioners Kailash Mandal and Mukesh Mandal. Further, accused petitioners Reena Devi, Rubi Devi and others carry allegation of brutally assaulting informant's husband by means of lathi, bhala and bricks causing fracture injuries in his left hand as well as rupturing of the head. The injury report of informant's husband Upendra Mandal would reveal that doctor has found one cut wound of size 3"x 2" x 1½" on scalp, pain and swelling

in left shoulder and was unable to raise hand, bleeding from nose, pain and swelling in the left foot and he was referred to JLNMCCH, Bhagalpur for X-ray of left shoulder, left foot and C.T. Scan of skull and on the basis of X-ray report the doctor found fracture of left scapula and the injuries were opined as grievous in nature. The injury report of Jyotish Kumar would reveal that doctor has found one cut wound of size 1½” x 1” x 1” on forehead and a lacerated wound in right elbow and as he was complaining of nausea and dizziness, so he was referred to JLNMCCH, Bhagalpur for CT-Scan of Skull. However, there is no final injury report in respect of injured Jyotish Kumar. From perusal of injury reports of both the injured persons it transpires that they have received injuries on their head and scalp and injured Upendra Mandal was found bleeding from nose whereas injured Jyotish Kumar complained of nausea and dizziness. Thus, the injury reports clearly show injury on the vital part of the body of informant's husband Upendra Mandal and son Jyotish Kumar and it further shows that repeated blow has been given to them which speaks volume about the required intention or knowledge of the assailants to commit offence of attempt to commit culpable homicide not amounting to murder. The informant and the witnesses, in their respective statements as mentioned in para- 3, 10, 11, and 12 of the case diary, have supported the case of prosecution on the point of assault on the head and other parts of informant's husband Upendra Mandal and son Jyotish Kumar by accused petitioners by means of lathi, bhala, iron rod and gandasas and named the accused petitioners as the assailants which is in consonance with the injury reports. Situated thus, this Court finds sufficient materials to frame charge u/S 308 alongwith other Sections of the I.P.C. against all the accused persons.

Accordingly, and in view of the above, the petition dated 12.05.2026 filed on behalf of all the four accused petitioners u/S 228 (1) of

COURT OF PRABHAT KRISHNA, ADDL. SESSIONS JUDGE-IV, BHAGALPUR

S.T. No.251/2026

State Vs. Kailash Mandal & Others.

Page 4 of 4

the Cr.P.C. is hereby **rejected**. All four accused persons are directed to come in person on next fixed date for framing of charges against them.

Fixing **23.06.2026** for framing of charge.

Sd/-

**DISTRICT & ADDL. SESSIONS JUDGE- IV
Bhagalpur**

08.06.2026

Date of judgment/order	08.06.2026
Date of Reserving judgment/order	-
Uploading Date	16-06-2026
Uploaded by	Stenographer