

**IN THE COURT OF SRI. BALJINDER PAL, DISTRICT ADDITIONAL
SESSIONS JUDGE-Ist-cum-SPECIAL JUDGE,
KAIMUR AT BHABUA**

SC/ST Reg. No. 22 of 2023
Durgawati PS Case No. 394/2022

I.A. No. 01/2026

Awdhesh Prajapati & Ors. vs. State of Bihar

**ORDER ON APPLICATION U/S 311 OF THE CR.P.C CORRESPONDING
SECTION 348 OF THE BNSS**

Date : 15.07.2026

1. Application filed on 04.05.2026, on behalf of the alleged injured witnesses and victims, namely, **1. Mahesh Paswan, 2. Mahendra Paswan and 3. Mitraraj Paswan** for recording their evidence, is moved for hearing. The application is filed on behalf of the Ld. Advocate of the informant and alleged injured witnesses forwarded by the Ld. Spl. P.P.

Reply to the application/rejoinder filed on behalf of the accused persons through their Ld. Advocate on 16.05.2026.

Heard both sides.

2. The Ld. Advocate on behalf of the informant and the applicants, namely, Mahesh Paswan, Mahendra Paswan and Mitraraj Paswan, submitted that the aforesaid three persons were also assaulted in the occurrence and they were examined by the Medical Officer, PHC Durgawati along with other injured victims i.e., informant Sita Devi and Mahadev Dusad and also their statement was taken by the police during investigation but their names is not recorded in the list of the charge-sheet witnesses and neither their statement is recorded in the case diary u/s 161 of the Cr.P.C. but they are not only the witnesses of the crime which took place on 25.12.2022 but also the victims of the case and, therefore, their examination is required for fruitful decision of the case. The Ld. Advocate on behalf of the informant further submitted that there is no fault of

the three persons whose statement is not recorded in the case diary and they are not made prosecution witness by the I.O. and for the fault of the I.O. the informant and witnesses cannot be punished. The Ld. Advocate further submitted that u/s 15A(4) of the SC/ST Act the victim and his dependents have every right to apply to the Special Court or Exclusive Special Court, as the case may be, to summon parties for production of any document or material witnesses or examined persons present and in this case, the application is moved by the informant/victim through their Ld. Advocate, forwarded by the Ld. Spl. P.P. requires to be allowed so that the evidence shall come on record.

3. The Ld. Advocate on behalf of the accused opposed the application and submitted that the application on behalf of the informant, is not maintainable in law and fact, the informant has no locus to file such type of petition and further submitted that the name of the witnesses alleged by the informant have sustained no injury which is reflected from the alleged injury report of Mahendra Paswan that doctor has found no external injury on his person and the said alleged witnesses had not appeared before the I.O., therefore, their statement were not recorded u/s 161 of the Cr.P.C. during investigation and had they sustained any injury they would have certainly made witnesses by the I.O. in this case and requested for dismissal of the petition u/s 311 of the Cr.P.C. corresponding Section 348 of the BNSS.

4. After hearing the submissions of both sides and perusal of the record, the Court found that the injury report of three alleged witnesses, namely, Mahesh Paswan, Mahendra Paswan and Mitraraj Paswan, are available on record bearing signatures of Dr. Shanti Kumar Manjhi, the same doctor who examined the informant Seema Devi there is another injured Mahadev Dusad and gave injury report on same date i.e., 25.12.2022. The injury report of Mahesh Paswan reveals lacerated wound on frontal region of scalp 2" x 0.5" with bleeding, injury report of Mahendra Paswan reveals no apparent injury on his body whereas injury report of Mitraraj Paswan reveals lacerated wound on frontal region of scalp 3" x

0.5” with bleeding, is available on record, which are filed along with charge-sheet by the I.O. of the case but the reason best known to the I.O. and the Supervising Authority why they were not included in the charge-sheet witnesses. The mistake appears prima facie on the part of Investigation Officer and his Supervising Authorities for which the informant and the injured witnesses cannot be held responsible. There is no impediment in summoning the additional witnesses in trial if their presence is deemed necessary and in the present case as all the three witnesses were examined by the same doctor who examined other injured witnesses on the same day, the Court found no reason why they should not be examined and tested their testimony on the touch stone on cross-examination during trial. There is additional provision u/s 15A(4) of the SC/ST Act under which the Court can summon and examine the documents and the witnesses. Accordingly, the application of the informant is ***allowed*** u/s 311 of the Cr.P.C. corresponding Section 348 of the BNSS r/w Section 15A(4) of the SC/ST

The Ld. Advocate of the informant and the prosecution are directed to produce the aforesaid three witnesses for their examination on next date of hearing and there is no sufficient time for their examination today available to the Court being busy evidence of witness is produced today in other cases.

The record is fixed for remaining prosecution evidence including the said three witnesses, namely, 1. Mahesh Paswan, 2. Mahendra Paswan and 3. Mitraraj Paswan on three consecutive dates, i.e., **29.07.2026, 19.08.2026, and 09.09.2026.**

(Dictated)

sd/-

(Baljinder Pal)
Additional Sessions Judge1-
cum-Spl. Judge
Kaimur at Bhabhua