

In the Court of Additional Sessions Judge-I, Masaurhi
Anticipatory Bail Petition No. 341/2026
[Masaurhi P.S.Case No.657/2021]

1. Rajesh Pankaj, aged about 55 years,
2. Pawan Kumar, aged about 44 years, Both S/o- Late Janardan Sharma,
R/o-Village- Saguni, P.S.- Masaurhi, Distt.- Patna

..... **Petitioners**

Versus

1. State of Bihar through Addl. Public Prosecutor

..... **Opposite Party**

Anticipatory Bail Petition Under Section 482 of BNSS

For the petitioner/s : Mr. Ajay Kumar, Ld. Advocate

For the O.P. State : Mr. Dhananjay Kumar, Addl. P.P.

ORDER

Dated: 06.08.2026

This anticipatory bail petition has been filed on behalf of the petitioners namely **1. Rajesh Pankaj 2. Pawan Kumar**, who are apprehending their arrest in connection with **Masaurhi P.S. Case No. 657/2021** for the offence **u/s 341, 323, 307, 302, 506, 34 IPC**, which is pending in the court of the S.D.J.M., Masaurhi is being pressed today and heard.

The case of prosecution, as per the written information given by Shiv Kumar Sharma is that on 16.11.2021 at about 02.30 PM while father of the informant Rameshwar Prasad Sharma was sleeping at his door, 1. Amarnath Sharma 2. Ravi Shankar Kumar 3. Avinash Chandra came together with iron rod, pistol in their hands and asked his father to register property in their name on which he refused. It is further alleged that Avinash Chandra armed with pistol threatened him that if he would not register land in his name, he would be shot, upon which scuffle took between them and meantime Amarnath Sharma and Ravi Shankar Kumar holding rods in their hands hit on the forehead of the father of the informant with intention to kill him. The father of the informant fell down unconsciously while screaming for help. On hearing voice of his father, informant and other family members reached their and saw that Avinash Chandra was holding pistol in his hand and Amarnath Sharma and Ravi Shankar Kumar were holding iron rods in their hands and they were giving threat to not file case otherwise he and his entire family would be killed. It is further alleged that informant took his father to Avadh Hospital Masaurhi from where he was referred to Patna after seeing his critical condition. The informant admitted his father in Harrison Multispeciality Hospital at Patna where his condition was serious.

The Ld. Counsel on behalf of the petitioners submitted that the aforesaid case was registered for the alleged offences under sections 341/323/307/506/34 of the Indian Penal Code in which vide order dated 21-03-2022 section 302 IPC was subsequently added. **Earlier** the petitioners had moved before this learned Court for grant of anticipatory bail vide Anticipatory Bail Petition No. 549 of 2025 which was heard on 16.12.2025 and rejected the anticipatory bail as it was filed after execution of process under section 82 Cr.P.C. and since then the petitioners have not moved before this Learned court or before the Hon'ble Patna High Court either for

grant of Anticipatory bail or Regular Bail in connection with the present case i.e., Masaurhi P.S. Case No. 657 of 2021. **True/photocopy of order dt. 16.12.2025 has been annexed as Annexure-1.** Besides the present case the petitioners have been made accused due to land dispute in (i) Masaurhi P.S. Case no. 343 of 2016 U/s 448/341/323/427/504 IPC & Section 27 of Arms Act in which police submitted final form due land dispute. In this case the informant was also an accused. (ii) Masaurhi P.S. Case no. 810 of 2019 U/s 147/148/149/323/452/380/354 IPC & Section 27 of Arms Act in which police submitted final form due land dispute. In this case the informant was also an accused. (iii) Masaurhi P.S. Case no. 556 of 2019 U/s 147/149/341/323/504/506/354B IPC in which the petitioners are on bail. In this case the Informant was also an accused. (iv) Masaurhi P.S. Case no. 699 of 2020 U/s 147/148/149/379/427/435/447/504/506 IPC in which the police submitted final form. In this case the informant was also an accused but petitioner no. 2 was not an accused. (v) Gaya Complaint Case no. 1867 of 2017 U/s 406/420/120B IPC in which the petitioners are on bail. In this case the informant's father was also an accused. (vi) Makhdumpur P.S. Case no. 507 of 2026 dt.21.06.2026 U/s 336/340/318/61(2) BNS in which petitioner no.1 is accused in a case lodged by the present informant against his own brother who has sold the land with which the petitioner no.1 has no concern.

It was further submitted that the **true/photocopy of FIR of Masaurhi P.S. Case No. 657 of 2021 is annexed herewith and marked as Annexure-2.** The petitioners are innocent and have committed no offence and have been falsely been made an accused in present case. The father of the petitioners namely Late Janardan Sharma and father of the Informant late Rameshwar Prasad Sharma were own brothers who were separated (Khanghi Batwara) in year 1989 with regard to land at Mauza Saguni, Tarpura and Jagpura and dealing with their respective properties having nothing to do with each other which is evident from the fact that in year 2009 both the brothers have sold land in which father of the informant was witness and in year 2020 father of the informant namely Shri Rameshwar Prasad Sharma sold land and from perusal of both the deeds it is evident that land of the petitioners were shown in the boundary of the land. The khangi batwara is further evident from the fact that there was dispute between Shiv Kumar Sharma (informant) and his brothers who are co-accused decided in case no.389 of 2024 in a case instituted under sec. 163 BNNS there is evidence of khangi batwara. **True/photocopy of Genealogical table/Deed dated 19-08-2009, 13-03-2020 and order dated 22-11-2024 has been annexed and marked as Annexure-3.** The petitioners were not ready to become witness and support the prosecution version on behalf of the informant then the son of the informant namely Abhishek Kumar tried to implicate them mentioning circumstance with regard to land at village Dharnai. At village Dharnai there were about 50 acres of land out of which both the co sharers were dealing with their land respectively and at places where both were selling the land they sold it together on the request of vendee. So far the allegation during investigation about selling of 16 Katha land together is with ulterior motive as there were about 100 Katha land and the petitioners entered into an agreement for sale of 50 Katha of their share due to necessity and at that time brother of the informant namely Amarnath Sharma entered into agreement for sale of about 16 Katha land of his share due to which dispute arose between the informant and his brothers and due to their disturbance only 14.531 decimal land could be sold. Earlier when the petitioners have sold land at Dharnai the father of the informant was witness which itself suggest that they were dealing separately since 2002. The petitioners also filed application before the

officer in charge with regard to this effect. **True/photocopy of application has been annexed and marked as Annexure-4.** The accusation found wrong and false and submitted final form against the petitioners. **True/photocopy of Final form has been annexed as Annexure-5.** The learned Sub Divisional Magistrate, Masaurhi took differed with the final report and on 09.05.2025 took cognizance of the offences under section 302 IPC including the petitioners also against which the present petitioners and others filed Criminal Revision No. 552 of 2025 which was heard on 09.01.2026 and the cognizance order dt. 09.05.2025 was set aside and remanded to pass fresh order. From perusal of the entire prosecution case neither the FIR nor the Charge sheet discloses any material constituting an agreement between the petitioners and other co-accused persons to commit the alleged murder in absence of allegation of any meeting, communication, planning, instigation or facilitation. **True/photocopy of order dt. 09.01.2026 has been annexed as Annexure-6.** Against the order dt. 09.01.2026 passed in Criminal Revision No. 552 of 2025 the informant moved before the Hon'ble Patna High Court vide Cr.Misc.no. 9551 of 2026 which was withdrawn on 26.05.2026 by the petitioner. **True/photocopy of order dt. 26.03.2026 has been annexed herewith as Annexure-7.** Thereafter on 18.03.2026 the learned Sub Divisional Judicial Magistrate, Masaurhi, Patna again took cognizance of the offences under section 302, 34 IPC against Awinash Chandra and Ravi Shankar **and against the petitioner's cognizance was taken u/s 120B of IPC.** **True/photocopy of order dt. 18.03.2026 has been annexed as Annexure-8.** From perusal of the first information report it transpires that the petitioners were not named or even having any vague suspicion against anyone and the prosecution has been launched by the informant Shiv Kumar Sharma, claiming himself to be an eye witness, having a specific accusation against Amarnath Sharma (own brother), Ravi Shankar Kumar (Nephew) and Awinash Chandra (own brother) and leaving no doubt or even speculation or suspicion against anyone. Even during the course of investigation the informant in his further statement has not named the petitioners nor even the wife of the informant has named the petitioners and even son of the informant has not alleged anything against the petitioners in connection with the alleged crime and besides that there is no independent witness who has alleged anything against the petitioners. The son of the informant has stated that "His grandfather, Rameshwar Prasad Sharma, wanted to divide his ancestral land into four parts, which his uncles, Amarnath Sharma and Avinash Chandra, always opposed. They wanted to divide the land into three parts. He further stated that uncle Amarnath Sharma along with his cousin Rajesh Pankaj and Pawan Kumar, son of Jarnadhan Sharma (younger brother of deceased Rameshwar Prasad who were mutually partitioned in 1989 and at Mauza Dharnai in 2002), entered into an agreement on 02.09.2021 for the registration of their ancestral land situated at Mauza Dharnai, Police Station Makhdumpur, District Jehanabad, Police Station No. 265, Account No. 108, Plot No. 1482, total area 16 kattha, at the rate of Rs. 3,40,000 per kattha, and in the absence of division of the land, grandfather Rameshwar Sharma was not ready for the registration of the said land". It was further submitted that it would be apparent from paragraph no.65 that the deceased had already partitioned among his three sons in 2008 who are on litigating term and the petitioners have nothing to do with them nor the informant or any witness even the son of the informant has alleged any participation or over act in the alleged crime. On the basis of figment of imagination and to dispute the sale of the land which exclusively belongs to the petitioners the present accusation without any iota of evidence has been alleged and only dispute of land between the petitioners and the informant has been alleged although there is no dispute with the

petitioners and even if dispute it was with his own brother Amarnath Sharma who has entered into agreement for sale of his share of land and the petitioner are witness (standard land has not been disposed of) and the petitioners have nothing to do with the alleged occurrence even the informant has not stated anywhere that the petitioners are anyway involved in the commission of crime. The Amarnath Sharma who happens to be the own brother of the informant and named in the first information report with specific accusation was put on trial and has been acquitted by the learned trial court. The police has rightly submitted final form in favour of the petitioner finding no any evidence to connect with the alleged crime.

It has been prayed to enlarge the petitioners on anticipatory bail.

The informant filed a detailed objection contending that the motive behind the murder of Rameshwar Prasad Sharma was that the accused persons wanted that the deceased should transfer the land in their's favour, which deceased refused. For the refusal to transfer the lands in favour of accused persons, accused Amarnath Sharma had attempted to assault the deceased with Kulhari, but he escaped for which he filed complaint on 11-07-2021 to the S.H.O, Masaurhi P.S. **(A photo copy of Certified copy of complaint dated 11/07/2021 to the S.H.O, Masaurhi P.S. has been annexed as Annexure-A.)** It was further contended that the accused-petitioner was adamant to sale valuable lands, against which deceased Rameshwar Prasad Sharma had filed petition dated 15/11/2021 before the District Sub-Registrar, Jehanabad, and District Collector, Jehanabad stating therein that accused persons fraudulently with dishonest intention wanted to execute agreement for selling land and execute sale-deed in respect of lands mentioned therein. From perusal of petition dated 15/11/2021, it appears that accused petitioners namely Rajesh Pankaj and Pawan Kumar were main conspiratory with agreed to with the accused petitioners namely Amar Nath Sharma, Avinash Chandra and Ravi Shankar Kumar to execute the sale-deed. **Photo copy of Certified copies of petition dated 15/11/2021 filed before the District Collector, Jehanabad and District Sub-Registrar, Jehanabad has been annexed as Annexure-B and B/1 respectively.** Since contents of both the petitions filed before the District Sub-Registrar Jehanabad and District Collector Jehanabad were same on the facts and circumstances of case. It shows the motive, intention of assault and murder to the deceased Rameshwar Prasad Sharma. On account of aforesaid complaint dated 11/07/2021 and two petitions both dated 15/11/2021 accused persons had become furious they started the meeting of mind to commit murder to Rameshwar Prasad Sharma and on 16/11/2021 at 2:30 P.M. they brutally assaulted to the deceased which resulted into his death on 24/11/2021 in Harrison Multispeciality Hospital, Patna. In the post-Mortem report dated 25/11/2021 injuries have been found on the head of the deceased Injuries have mentioned in the Post Mortem Report and came of Death has been Reported in P.M. (A photo copy of certified copy of Post Mortem report is annexed herewith and marked it as Annexure-C). I.O. submitted charge sheet on 15/05/2022 only against accused Amarnath Sharma and kept the investigation pending against other accused persons. The informant having found that the I.O. was not fairly investigating the case. He filed Criminal Writ on 09/12/2022 in the Hon'ble Patna High Court which was numbered as Cr.W.J.C. no.- 26/2023, which was disposed of by order dated 10/04/2023 with the direction to the petitioner to make representation before the S.S.P. and S.P. was directed to take appropriate action in the matter upon receiving representation. **A photo copy of order dated 10/04/2023 passed in Cr.W.J.C. No.- 26/2023 is annexed herewith and marked it as Annexure-D.** In the

mean time on 03/04/2023 the informant filed Protest-cum Complaint petition in the Court of A.C.J.M, Masaurhi, Patna on which investigation/Status report was call for from S.H.O. Masaurhi by order date. 03/04/2023. **A photo copy of Certified copy of Protest cum complaint petition date. 03/04/2023 is annexed herewith and marked it as Annexure-E.** The complainant filed representation on 02/05/2023 before the Senior S.P., Patna, in compliance of the order dated 10/04/2023 passed in Cr.W.J.C. No.- 26/2023 (Annexure-D). But S.S.P. Patna did not take any action as directed by the Hon'ble Court. **A photo copy of representation dated 02/05/2023 to the Senior S.P., Patna is annexed herewith and marked it as Annexure-F.** The I.O. having come to know that the informant had filed writ application bearing Cr.W.J.C. No.- 26/2023 hurriedly submitted final report no.- 323/2023 dated 30/03/2023 showing the allegation to be False in favour of accused persons without any sufficient and cogent evidence, while accused persons were present on the place of occurrence and committed murder to deceased. On submission of final form on 30/03/2023, the Learned S.D.J.M, Masaurhi, after perusal of case diary and materials available on the case record and applied her own mind there after took cognizance vide order date. 09/05/2025 of the offence U/S 302 I.P.C. against the accused/petitioners and against the said order of taking cognizance the accused/petitioners namely:- Ravi Shankar Kr., and Avinash Chandra filed Anticipatory Bail petitions vide A.B.P. No. 488/2025 and A.B.P. No. 552/2025 respectively, and Rajesh Pankaj and Pawan Kumar also filed A.B.P. No. 549/2025 all these three A.B.P already been rejected by this court on 16/12/2025. The copies of order dated 16/12/2025 was enclosed as Annexure-I of the A.B.P. filed by the petitioners Ravi Shankar Kumar, Avinash Chandra enclosed as Annexure-1 of his A.B.P., Rajesh Pankaj and Pawan Kumar also enclosed as annexure-1 of their A.B.P. From the perusal of above annexure-1 of these Anticipatory Bail have already been rejected this Court on 16/12/2025 after full hearing of the parties concern. The accused/petitioners have not surrendered despite process issued against them u/s- 84 of the B.N.S.S. 2023 corresponding to section 82 Cr.P.C. declaring them proclaimed offender inspite of that process petitioners are still not surrendered in the court of S.D.J.M. Masaurhi. It is, submitted that the Hon'ble S.C. passed in criminal Appeal No.- 1209 of 2021 Prem Shankar Prasad Versus The State of Bihar and others in para 4-5 relying upon the decision of the court in case of State of Madhya Pradesh Vs. Pradeep Sharma reported in (2014) 2 S.C.C. 171. It is, submitted that as observed and held by this court a person against whom the proclamation has been issued and the proceeding under section 82-83 of Cr.P.C. have been initiated is not entitled to the benefit of anticipatory bail." It is, submitted that the Hon'ble High Court, Patna passed in Cr. Misc. No.- 67668 of 2022 Srikant Upadhyay and another Vs. The State of Bihar observed that "petitioners have been declared absconder and process of 82 and 83 have been initiated against them to ensure their appearance in the Court considering the aforesaid development. It was further submitted that all the four accused/petitioners namely Avinash Chand and Ravi Shankar Kumar, Rajesh Pankaj and Pawan Kumar, in which cognizance order dated 09/05/2025 was set aside with a direction to pass order afresh in accordance with law as indicated above preferably within a period of eight weeks from the date of receipt of a copy of this order, after hearing the parties. With this observation the instant revision petition is allowed (Para 12 of Cr. Rev No. 552/2025) order dated 09/01/2026. It is, further submitted that as per direction of your honour's court, the learned S.D.J.M., Masaurhi has been pleased to hear the parties and after gone through the case diary paras 7, 9 and 25 and applied her own mind, took cognizance against accused/petitioners namely Avinash Chandra and

Ravi Shankar Kumar u/s 302/34 of IPC and against Rajesh, Pankaj and Pawan Kumar for offence u/s 120-B of IPC with detailed reasons. From the perusal of paragraphs-3 of anticipatory bail petition, filed by the petitioner Rajesh Pankaj, who concealed the criminal antecedent such as Masaurhi P.S. Case No. 865/2024. It is concealment of facts before your Honour's Court. It is, submitted that the petitioner Avinash Chandra is an accused of altogether four criminal cases. The petitioner namely Rajesh Pankaj is an accused of in Masaurhi P.S. Case No. 865/2024, but he concealed it in paragraph-3 of his bail petition. Masaurhi P.S. Case No. 865/2024 is for the offence u/s 316/318/336/338/340/61 of BNS, 2023. After gone through the case diary para no.- 7, 9 and 25 and materials available on the case record such as protest-cum-complain petition representation petitions given to the S.S.P. Patna etc. and applied her own mind and took the cognizance of offence u/s- 302/34 I.P.C. against accused (i) Avinash Chandra (ii) Ravi Shankar Kumar and 120-B of I.P.C. against (iii) Rajesh Pankaj and (iv) Pawan Kumar on 18/03/2026.

Again the petitioners filed **Reply/Show Cause to the objection petition dt. 27.07.2026 contending that** mere existence of a family land dispute between the informant and his own brothers cannot give rise to an inference of criminal conspiracy against the present petitioners, particularly in the absence of any material showing a prior agreement or meeting of minds as required under Section 120B IPC.

The petitioners are not named in the first information report nor has any overt act been alleged in commission of the crime the finding or opinion no way relates to conspiracy. The Investigating Officer, after conducting a fair and impartial investigation, found no material whatsoever against the present petitioners. The informant has failed to disclose any material showing the presence or participation of the petitioners at the place of occurrence. The allegation that the petitioners committed murder in connivance with others is wholly false, vague and without any supporting material.

On the other hand the learned Addl. P.P. for the State vehemently opposed the prayer for anticipatory bail of the petitioner.

Heard the arguments of both sides and perused the case record as well as the entire case diary. Having considered the rival submissions and the materials available on record, this Court finds that the earlier anticipatory bail application filed by the petitioners was rejected on 16.12.2025, primarily on the ground that the application was filed after execution of process under Section 82 Cr.P.C. and that the petitioners were evading arrest. The merits of the accusation against the petitioners, particularly the materials relating to the alleged conspiracy, were not examined in detail in the said order. Subsequently, the order taking cognizance dated 09.05.2025 was set aside by the Revisional Court vide order dated 09.01.2026 and the matter was remitted to the learned court below for fresh consideration in accordance with law. As a consequence thereof, the earlier order of cognizance stood set aside and the consequential processes issued pursuant to the said order, including the process under Section 82 Cr.P.C., cannot be treated as surviving independently of the cognizance order which itself had ceased to exist. Thereafter, upon fresh consideration of the materials, the learned Magistrate has taken cognizance vide order dated 18.03.2026, whereby cognizance has been taken against co-accused Avinash Chandra and Ravi Shankar Kumar under Sections 302/34 IPC, whereas against the present petitioners **Rajesh Pankaj and Pawan Kumar cognizance has been taken only under Section 120-B IPC** and summons have been directed to be issued against them. Thus, the present application arises out of a changed factual and legal situation and cannot be treated as

barred merely on account of the earlier rejection of anticipatory bail. It is this fresh cognizance order which has given rise to the present apprehension of arrest and forms the basis of the present anticipatory bail application.

So far as the allegation against the present petitioners is concerned, it appears that neither of them was named in the first information report and no overt act was attributed to either of them in the alleged assault upon the deceased. The present petitioners were not alleged to be present at the place of occurrence or to have participated in the assault. The subsequent allegation against the present petitioners appears to have emerged during investigation on the basis of the alleged land transaction and the theory that they had entered into an agreement for sale of land and had a meeting of mind with the other accused persons. The petitioners have specifically contended that they are the cousins of the informant and that there had already been a family partition between their father and the deceased in the year 1989. They have also relied upon the documents relating to the respective land transactions to contend that they were independently dealing with their respective share of the property. The materials available on record further show that, during investigation, the Investigating Officer initially submitted charge-sheet only against co-accused Amarnath Sharma and kept investigation pending against the other accused persons. Thereafter, on completion of further investigation, Final Report No. 323/2023 dated 30.03.2023 was submitted in favour of the present petitioners also, finding the allegations against them to be false and not finding sufficient material to connect them with the alleged occurrence. Though the learned Magistrate was competent to disagree with the Final Report and, upon application of judicial mind to the materials available in the case diary, to take cognizance against the petitioners, the fact that after investigation the Investigating Officer did not find sufficient material against them is a relevant circumstance while considering the prayer for anticipatory bail. The investigation has already been completed and there is no material before this Court to indicate that custodial interrogation of either of the present petitioners is presently necessary. There is no allegation in the F.I.R. that either petitioner was present at the place of occurrence or participated in the physical assault upon the deceased. The prosecution would ultimately be required to establish the necessary meeting of minds by legally admissible evidence. At this stage, there is no direct allegation in the F.I.R. against the present petitioners, no allegation of their presence at the place of occurrence and no overt act attributed to either of them in the commission of the assault.

The principal accused against whom charge-sheet was initially submitted, namely Amarnath Sharma, has already faced a full-fledged trial and has been acquitted by the learned trial court vide judgment dated 28.03.2025. Such acquittal, by itself, does not confer any right upon the present petitioners to claim anticipatory bail.

Nevertheless, it is a relevant subsequent circumstance in the overall factual history of the case. It is further to be noticed that the fresh cognizance order dated 18.03.2026 has altered the nature of the accusation against the present petitioners. Whereas the earlier cognizance was under Section 302 IPC, the learned Magistrate, upon fresh consideration, has taken cognizance against the present petitioners only under Section 120-B IPC. This circumstance is of considerable relevance while considering the nature of the accusation and the necessity of custodial interrogation. There is also nothing on record to indicate that custodial interrogation of the present petitioners is presently indispensable for any pending investigation. The petitioners have undertaken to cooperate with the proceedings.

Having regard to the entire facts and circumstances of the case, the nature of the accusation against the present petitioners, the fact that they were not named in the F.I.R., the absence of any allegation of their presence or overt act at the place of occurrence, the fact that cognizance against them has been taken only under Section 120-B IPC, the submission of Final Report No. 323/2023 in their favour after investigation, the setting aside of the earlier cognizance order in revision, the fresh cognizance order dated 18.03.2026 and the absence of any material indicating that custodial interrogation is presently required, this Court is of the considered opinion that the present application deserves to be allowed. At the same time, it is clarified that the observations made herein are confined only to the adjudication of the present anticipatory bail application and shall not prejudice either the prosecution or the defence during the trial. Accordingly, the anticipatory bail petition is **allowed**. In the event, the petitioners appear before the learned court below pursuant to the summons issued under the fresh cognizance order dated 18.03.2026, within four weeks from the date of this order, they shall be released on bail on furnishing bail bonds of **Rs.15,000/- (Rupees Fifteen Thousand)** each with two sureties of the like amount each to the satisfaction of the learned S.D.J.M., Masaurhi, subject to the conditions stipulated under **Section 482(2) of the BNSS** and further subject to the following conditions:

- (i) The petitioners shall appear before the trial court on each and every date fixed unless exempted in accordance with law.
- (ii) The petitioners shall not directly or indirectly induce, threaten or promise any prosecution witness or tamper with the evidence.
- (iii) The petitioners shall cooperate in the trial and shall not seek unnecessary adjournments.
- (iv) In case of violation of any of the aforesaid conditions or misuse of the privilege of bail, the prosecution shall be at liberty to seek cancellation of bail in accordance with law. Accordingly, the aforesaid bail petition is hereby **disposed of**.

Let a copy of this order be sent to the court concerned.

(Dictated)
Sd/-
(Sankash Chandra)
(Addl. Sessions Judge-I),
Masaurhi