

IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS JUDGE, SAHARSA

Saharsa, Dated: - 23.04.2026

Present: - Dinesh Sharma, P.D. & S.J., Saharsa

Criminal Revision No. 8/2026

Jay Narayan Sah @ Tetar Sah & Others Vs. The State of Bihar & Ors.

IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS JUDGE,  
SAHARSA

Dated, Saharsa, the 23<sup>rd</sup> April 2026

Present: - Dinesh Sharma, Principal Sessions Judge, Saharsa

Criminal Revision No. 8/2026

Jay Narayan Sah @ Tetar Sah & Others Vs. The State of Bihar & Ors.

**In the matter of: -**

1. Jay Narayan Sah @ Tetar Sah, aged about 65 years, S/o Late Ramji Sah,
2. Wakil Kumar @ Wakil Sah, aged about 30 years,  
S/o Jay Narayan Sah @ Tetar Sah
3. Khushilal Sah @ Mushar Sah, aged about 45 years, S/o Late Parmeshwari Sah
4. Raja Sah @ Raja Kumar, aged about 25 years  
S/o Khushilal Sah @ Mushar Sah
5. Ranjit Sah @ Ranjit Kumar aged about 28 years  
S/o Khushilal Sah @ Mushar Sah
6. Chhotu Kumar @ Chhotu Sah aged about 20 years  
S/o Khushilal Sah @ Mushar Sah
7. Kusumlal Sah aged about 60 years S/o Late Sirichan Sah
8. Virendra Sah @ Virendra Kumar aged about 35 years S/o Nago Sah  
All residents of Village-Tariyama, Ward No. 4, P.S. Bakhtiyarpur,  
District- Saharsa... .. **Petitioners**

Vs

1. The State of Bihar
2. Murari Pd. Gupta aged about 35 years S/o Late Basant Sah
3. Keshav Kishor Sah aged about 65 years S/o Late Asharfi Sah  
Both resident of Village Tariyama, P.S. Bakhtiyarpur, District Saharsa.  
.....**Opposite Parties**

**Appearance :-**

For the Petitioners :- Sri Mahendra Narayan Choudhary, Ld. Advocate  
For the State (O.P. No. 1) :- Sri Krishna Murari Prasad, Ld. P.P.  
For the O.P. No. 2 & 3 :- None

**ORDER**

1. The instant revision petition has been filed by the petitioners/revisionists challenging the correctness, legality and propriety of the order dated 09.12.2025 passed by Ld. S.D.M., Simri Bakhtiyarpur Saharsa passed in Misc Case No. 665/2025 whereby and whereunder the revisionists were

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directed to appear in person on 12.01.2026 in the court and to file show-cause as to why they should not be directed to furnish bonds/security in the sum of Rs. 10,000/- with two sureties in the like amount each to keep the peace for a period of one year.

2. Heard the submissions of Learned counsel for the petitioner and Ld. P.P. for the State. The learned counsel for the petitioners/revisionists has submitted that the order dated 17.01.2026 is bad in law and against the facts and circumstances of the case. The impugned order has been passed by the learned court in mechanical way. It is further submitted that the police has submitted wrong report. It is further submitted that the petitioners have got rent receipt and other document in support of their claim. Upon the above grounds, it is submitted by the learned counsel for the petitioner that the instant revision petition may kindly be admitted for hearing and the impugned order may kindly be set-aside.

3. On the other hand, the Ld. P.P. for the State has vehemently opposed the prayer made in the petition submitting that the impugned order is interlocutory one and Section 397(2) of Cr.P.C./ section 438(2) BNSS bars the filing of revision petition against the interlocutory orders. Be it noted that none appeared for the petitioners/revisionists despite repeated calls. Pertinently, the revision petition is pending since 17.01.2026. The revision petition can not be kept pending indefinitely.

4. Rival submissions considered. Record perused. The judgment relied upon by the learned counsel for the petitioner is also carefully gone through.

5. The petitioner has relied upon **Brahmdeo Singh & Others Vs The State of Bihar 1980 BLJ 353**. Perused the judgment of the Hon'ble Court. The application/petition before the Hon'ble Court was directed for quashing of



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the proceeding under Section 107 of Cr.P.C. The Hon'ble Court has wide power under Section 482 of the Cr.P.C. and the jurisdiction of the Hon'ble Court is not circumscribed by the bar of Section 397(2) of Cr.P.C. However, this court has no power of Section 482 of Cr.P.C. and being a subordinate court bound by the mandate of Section 397 (2) of Cr.P.C. Had this court been given power under Section 482 of the Cr.P.C. This court also would have quashed the impugned notice. [Emphasis added]

6. In view of the above, in the humble understanding of this court, the above judgment of the Hon'ble High Court is not applicable on the facts and circumstances of the case. As the Hon'ble Court has quashed the proceedings using its power of quashing which the Hon'ble Court is having under Section 482 of the Cr.P.C. **However, the judgment is binding on the learned S.D.M., Simri Bakhtiyarpur and he cannot proceed further with the miscellaneous case once the judgment of the Hon'ble Court is brought into its notice.** [Emphasis added]

7. The petitioners/revisionists have challenged the preliminary notice issued by the Executive Magistrate calling upon them to show cause why they should not be required to furnish security for keeping the peace. At the outset, this Court must address the maintainability of this petition in light of the bar contained in Section 397(2) of the Cr.P.C./section 438 (2) of the BNSS.

8. Reverting back to the facts of the case, be it noted that the impugned show cause notice, issued under the mandate of Section 126 of the BNSS, cannot be elevated to the status of a revisable order, as it fundamentally constitutes nothing more than statutory Information and a preliminary communication of executive apprehension. The notice serves as a status report of apprehension;

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the learned Magistrate, at this nascent stage, has neither affirmed the truth of the allegations nor adjudicated upon any facts, but has merely shared the substance of information received to invite a response from the petitioners/revisionists. There exists a total absence of Lis or a contested issue; the notice is merely the preface to the book of inquiry, and until the petitioners/revisionists files a reply, no legal conflict has been formally arisen for this Court to resolve. The show cause notice acts as a protective shield rather than a sword, providing the petitioners/revisionists with a important opportunity of purging, a window of natural justice where they may dissolve the cloud of suspicion by showing the notice to be legally stillborn or factually misplaced. In the opinion of this Court the notice possesses a non-executory and non-coercive character; it does not curtail physical liberty, mandate financial liability, or alter the petitioners/revisionist's legal status in any capacity. It merely requires an explanation. Consequently, as the notice does not transit from the realm of procedural information into the domain of adjudication, it remains purely interlocutory. To interfere at this stage would be to adjudicate upon a hypothetical grievance and bypass the exhaustion of remedies at the grassroots level, thereby violating the express legislative mandate and systemic discipline intended by section 397(2) of the Cr.PC/ section 438 (2) of the BNSS.

9.The Hon'ble Supreme Court in the case of **Amarnath Vs The State of Haryana (1977) 4 SCC 137**, has held that *interlocutory orders are those which are purely interim or temporary and do not decide the important rights or liabilities of the parties*. The impugned order, in view of the discussions made herein above and in the light of the judgement of the

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Hon'ble Supreme Court, in the considered opinion of this Court, is an interlocutory order and revision against such orders is barred under Section 397(2) of Cr.P.C./438(2) of BNSS.

10.If the petitioners/revisionists believe the notice is legally stillborn, vague, or the Ld. Executive Magistrate was not competent to issue, the proper and most efficacious remedy is to appear before the learned Executive Magistrate and raise these specific preliminary objections. The law presumes that the Ld. Executive Magistrate, upon being shown a valid legal flaw or a lack of factual basis, will exercise his power under section 137 BNSS to discharge the notice and drop the proceedings.

11.To entertain a revision at this premature stage would not only result in a piecemeal inquiry but would also frustrate the very objective of preventive justice by stalling the inquiry through litigious maneuvers. The revisional Court should not be converted into a forum of first impression for procedural flaws that the subordinate court is fully competent to correct.

**12.However, it is clarified that if, after the petitioners/revisionist have appeared and shown valid cause, be it on grounds of law, jurisdiction, or fact, the learned Magistrate fails to consider the same and arbitrarily decides to proceed further with the inquiry, such a decision would then ripen into an Intermediate Order. In such a contingency, where a formal decision to proceed is made despite a patent legal bar, the petitioners/revisionist shall be at liberty to approach this Court again, as the bar of Section 438 (2) of the BNSS would no longer impede the corrective jurisdiction of this Court. [Emphasis added]**

13.Consequently, as the impugned order is currently purely interlocutory in nature, the present revision is hit by the bar of section 397(2) of the Cr.PC/

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section 438 (2) of the BNSS. The revision petition is, therefore, **dismissed as not maintainable.**

14. The petitioners/revisionist are advised to approach the Court of the learned Executive Magistrate and file a detailed reply showing cause against the notice. It is expected that the learned Magistrate shall consider all legal and factual objections raised by the petitioners/revisionist with an independent application of mind before proceeding further with the inquiry.

The learned Executive Magistrate, Simri Bakhtiyarpur, Saharsa shall keep in mind the ratio of the judgment of the Hon'ble High Court reported as **Brahmdeo Singh & Others Vs The State of Bihar 1980 BLJ 353** before proceeding further with the inquiry.

15. A copy of this order be sent to the court concerned for information and needful.

16. Announced in open Court today on this 23<sup>rd</sup> April 2026. File be consigned to Record Room, as per rules.

Dictated & corrected by:

*Dinesh Sharma*  
(DINESH SHARMA)

Principal Sessions Judge, Saharsa  
23.04.2026

Order passed by:

*Dinesh Sharma*  
(DINESH SHARMA)

Principal Sessions Judge, Saharsa  
23.04.2026

Date of Judgement/Order	23.04.2026
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