

IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS JUDGE, SAHARSA

Dated, Saharsa, the 03rd June, 2026

Present:- Dinesh Sharma, Principal District & Session Judge, Saharsa

A.B.P. No.541/2026 (Arising out of Simri Bakhtiyarpur P.S. Case No. 116/2026)

Ajay Sahu & 3 Others

..... Petitioners Vs State of Bihar

In the matter of :-

1. Ajay Sahu S/o Shankar Sah

2. Shankar Sahu S/o Late Sumrit Sah

3. Sindhu Kumari W/o Ajay Sahu

All 1 to 3 are resident of Village Dhab, Ward No. 12, P.S. Simri

Bakhtiyarpur, District Saharsa

4. Shrawan Sah S/o Chalitar Sah

Resident of Village Hindupur, Ward No. 08, P.S. Simri Bakhtiyarpur,

District Saharsa.

....Petitioners

Vs

The State of Bihar

.....Opposite Party

Appearance :-

For the Petitioners :- Sri Sunil Kumar Singh, Advocate

For the State :- Sri Krishna Murari Prasad, Ld. P.P.

Sl. No.	Date of proceeding	Order with the signature of the court	Office action taken with date
	03.06.2026	This anticipatory bail petition has been filed on behalf of the petitioners namely (1) Ajay Sahu s/o Shankar Sah, (2) Shankar Sahu S/o Late Sumrit Sah, (3) Sindhu Kumari W/o Ajay Sahu and (4) Shrawan Sah S/o Chalitar Sah who are apprehending their arrest in connection with Simri Bakhtiyarpur P.S. Case No. 116/2026 registered under Sections 126(2), 115(2), 85, 303(2), 352, 351(2), 3(5) of BNS. 32 Heard the arguments of the learned counsel for the petitioners and the learned P.P. for the State. 3. It is submitted by the learned counsel for the accused petitioners that petitioners are innocent and have falsely been implicated in this case due to grudge and malice. It is further submitted that the petitioners Ajay Sahu and Shankar Sahu bears no criminal antecedent whereas petitioner Shrawan Sah bears criminal antecedent of two cases and petitioner Sindhu	

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<u>Cont/2-</u> <u>03.06.2026</u>	Kumari bears criminal antecedent of one case. It is further submitted that the alleged sections sections are not applicable against the petitioners and and they have never tortured and assaulted the informant and her mother. It is further submitted that Section 85 of BNS is added to make the case graver and non-bailable. It is further submitted that petitioners are men and woman of means and there is no chance of their absconding in this case and they are ready to furnish sound sureties to the full satisfaction of the learned court. Upon these grounds, the learned counsel prays to grant anticipatory bail to the petitioners. 4. On the other hand, the learned P.P. for the state submits that the petitioners have been given benefit of Section 35(3) of BNSS therefore at this stage, there is no reasonable apprehension of arrest as such the petitioners are not entitled for anticipatory bail. 5. Rival submissions considered, Record perused. 6. The prosecution case as per the written report of the informant, Durga Kumari is that on 15.04.2026 her father Shankar Sahu, alongwith Ajay Sahu, Sindhu Kumari came from Surat in their private vehicle bearing Regd No. GJ05CY3417 and Shravan Sah also came from Hindupur and started telling her mother that she has illicit relationship with many people and started assaulting her mother and mausi by all the accused persons by lathi, danda, fists, legs and punches due to which she became unconscious. Thereafter Sindu Kumari snatched gold chain from her neck and also snatched silver anklet. Thereafter the nearby villagers came and save her mother and brought to Simri Bakhtiyarpur Hospital which she was referred to Sadar Hospital	
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<u>Cont/3-</u> <u>03.06.2026</u>	Saharsa. The accused persons also stated that if any villagers will help or will testify on their behalf in the police station or the court then the accused persons implicated him in false case and threatened to face dire consequence in future. Her mother was married to his father about eight months ago through court marriage and thereafter Mateshwar Temple. 7. Admittedly the police has given benefit of Section 35(3) of BNSS meaning thereby that presently there is no reasonable apprehension of arrest. Reasonable apprehension of arrest is the sine qua non for grant of anticipatory bail. Since at present there is no reasonable apprehension of arrest therefore this court is not inclined to grant anticipatory bail to the petitioners. Resultantly, the anticipatory bail application of petitioners (1) Ajay Sahu, (2) Shankar Sahu, (3) Sindhu Kumari and (4) Shrawan Sah is hereby rejected. 8. Be it noted that this court has rejected the prayer as the threshold to grant anticipatory bail application i.e. the reasonable apprehension of arrest is not present in the instant case at this stage. 9. If the police changes its mind and wants to arrest the petitioners in this case eventually the investigating officer/arresting officer/S.H.O. concern shall give a seven days prior notice in writing to the petitioners so that the petitioners may renew their prayer for anticipatory bail if they wish to do so. 10. During the hearing of the argument the learned counsel for the petitioners stated at the bar that some of the Judicial Magistrates does not grant bail to the accused persons even in cases in which the police has given benefit of Section 35(3) of BNSS and have filed charge-sheet without arresting the accused persons if Section	
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Cont/4-
03.06.2026

85 of BNSS is invoked in the case. If the submission of learned counsel for the petitioners is true then it is very sad state of affairs, the law with regard to grant of bail to the accused persons who have not been arrested during the investigation is well settled.

11. The Hon'ble Supreme Court in the case of **Amanpreet Singh Vs Central Bureau of Investigation, AIR 2021 SC 4154: (2022) 13 SCC 764** has held that "The court shall on appearance of an accused in non-bailable offence who has neither been arrested by the police/investigating agency during investigation nor produced in custody as envisaged under Section 170 of the Cr.P.C. call upon the accused to move a bail application if the accused does not move it on his own and release him on bail. As the circumstance is of having not been arrested during investigation or not being produced in custody is itself sufficient to entitle him to be released on bail. **(See para 10 of the judgment).**

12. With the abovesaid observations, both the anticipatory bail petitions stand disposed of in the above terms.

(Dictated)

Sd/-

(Dinesh Sharma)

Principal Sessions Judge,

Saharsa

03.06.2026

Date of Judgement/Order	03.06.2026
Date of Reserving Judgement/Order	03.06.2026
Uploading Date	15.06.2026
Uploaded by	Sachin Kumar