

IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS JUDGE, SAHARSA

Dated, Saharsa, the 21st July 2026

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

B.A. No. 513/2026 (Arising out of Saharsa Sadar P.S. Case No. 481/2025)

Md. Shamsuddin @ Bablu Vs State of Bihar

In the matter of:-

Md. Shamsuddin @ Bablu S/o Md. Moharram

Resident of Hakpara, Ward No. 5, P.S. and District Saharsa.

....Petitioner

Vs

State of Bihar

.....Opposite Party

Appearance :-

For the Petitioner :- Sri Indra Bhushan Prasad Yadav, 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
	21.07.2026	This bail petition has been filed on behalf of the petitioner, namely Md. Shamsudin @ Bablu S/o Md. Moharram who is in custody since 07.04.2026 in connection with Saharsa Sadar P.S. Case No. 481/2025 registered under Sections 109, 61(2), 118(2), 3(5), 103(1) of BNS, 2023 and Section 27 of the Arms Act. 2.Heard the arguments of the learned counsel for the petitioner and the learned P.P. for the State. 3.It is submitted by the learned counsel for the accused petitioner that petitioner is in custody since 07.04.2026. It is further submitted that petitioner is quite innocent and has committed no offence and he has falsely been implicated in this case due to dirty village party politics. It is further submitted that petitioner bears criminal antecedent of one case. It is further submitted that there are cases and counter case between the parties and also there exists land dispute between the parties. It is further submitted that there is no eyewitness in this case and the petitioner has not found in the CCTV footage. It is further submitted that co-accused persons have already been granted bail by this court in R.B.A. No. 347/2026, R.B.A. No. 399/2026 and R.B.A. No. 432/2026. It is	

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<u>Cont/2-</u> <u>21.07.2026</u>	further submitted that petitioner is ready to abide all the terms and conditions laid down by the court and he is ready to furnish sound sureties to the full satisfaction of the court. Upon these grounds, the learned counsel prays to grant bail to the petitioner. 4. On the other hand, the learned PP assisted by learned counsel for the informant have opposed the prayer of bail vehemently. 5. Rival submissions considered, Record perused. 6. The prosecution case, as emerging from the Fard-Beyan of the informant, Naziya Praveen, recorded by S.I. Md. Shoaib Akhtar of Sadar Police Station on 22.04.2025 at 10:00 P.M. at Surya Hospital, Gandhi Path, Saharsa, is that on 22.04.2025 at about 6:30 P.M., her husband, Md. Fakruddin (aged about 45 years), was returning home on his motorcycle from Saharsa Kachahari after completing his work. When he reached near Shivpuri Trimurti Chowk, two unknown persons riding on a motorcycle allegedly opened fire, causing a gunshot injury to his stomach, and fled from the scene. Fakruddin fell to the ground in a pool of blood. A local person informed the informant about the incident through her husband's mobile phone and admitted the injured Fakruddin to Surya Hospital. Upon receiving the information, the informant reached the hospital, where her husband was undergoing treatment. The informant suspects that, due to an ongoing land dispute, Md. Mazmuddin @ Nadeem, Md. Firoz, Md. Shamsheer, Md. Shamsuddin @ Bablu, and Vinay Kasodhan, in furtherance of a criminal conspiracy and with the intention to commit murder, engaged unknown assailants to shoot her husband. She further alleged that the said persons had previously assaulted her	
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Cont/3- 21.07.2026	husband. 7. Be it noted that the the petitioner was admitted on anticipatory bail by the Hon'ble High Court of Judicature at Patna vide order dated 08.09.2025 passed in Criminal Miscellaneous No. 47789/2025. The informant of this case has challenged the aforesaid order in anticipatory bail before the Hon'ble Supreme Court and the Hon'ble Supreme Court cancelled the anticipatory bail vide order dated 11.03.2025 passed in SLP (Cri.) No. 18821-18826/2025 decided on 11.03.2026. 8.Pursuant to the cancellation of anticipatory bail the petitioner surrendered before the learned jurisdictional Magistrate within the time granted by the Hon'ble Supreme Court. 9.Thereafter filed regular bail application being R.B.A. No. 317/2026 which was rejected vide order dated 05.06.2026 by this court due to concealment of criminal antecedent. However, the petitioner was given liberty to apply afresh after filing of charge-sheet disclosing the criminal antecedent of petitioner. 10. Now the charge-sheet has been filed and the petitioner has filed the fresh bail application disclosing all the criminal antecedents. Though the name of the petitioner is mentioned in the FIR. However admittedly the informant is not the eye-witness of the incident. She has alleged in the FIR that she believes that her husband has been murdered by the petitioner and other FIR named accused persons in conspiracy with each other due to land dispute. 11. PW-Md. Ibrahim (para-No. 8 of the case diary), PW-Md. Mukhtar (para-No. 9 of the case diary), PW-Md. Afroz (para no. 54 of the	
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Cont/4- 21.07.2026	case diary), PW-Md. Rakib (para-No. 55 of the case diary), PW-Md. Aftab (para 56 of the case diary), PW-Md. Mustakim (para-No. 57 of the case diary), have named the petitioner, however, their statements are merely their opinion as far as the actual incident of firing is concerned as these witnesses have not witnessed the incident. 12. During the course of investigation, the statement of the deceased was recorded by the Investigating Officer. In reply to the questions of the Investigating Officer, the deceased replied that he could not identify the assailants. He further stated that he was not having any enmity with anybody. 13. The name of this petitioner is disclosed by the CCL in his alleged disclosure statement which is at para-No. 121 of the case diary, however, the same is not admissible in evidence being hit by section 23 (1) of BSA, 2023. 14. In para no.-175 of the supplementary case diary, the informant of this case has sent a letter to the DIG, Saharsa mentioning therein that one lady namely Jaimun Khatoon of her village came to her house on 08.04.2026 at about 04:00 P.M. and disclosed that accused Md. Shamsher, Md. Firoz, Md. Nadeem (The petitioner) and Md. Bablu have got killed her husband. The police has recorded the statement of said lady Jaimun Khatoon at para-No. 179 of the case diary (<i>The statement has been recorded on 15.06.2026</i>) wherein she has stated that on 16.09.2025 at about 08:00 A.M. she had gone to the house of co-accused Md. Shamsher and saw that Md. Shamsher, Md. Firoz, Md. Nadeem (the petitioner) and Bablu were sitting at the house of Md. Shamsher and were talking with each other and Shamsher was saying that he has got killed Fakruddin and has given Rs. 3 Lakhs and asked the co-accused persons to	
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Cont/5- 21.07.2026	contribute some money. 15. This court is aware that this is a murder case and the deceased has been shot dead in broad daylight, however, this court also has a duty to protect the rights of accused as his personal liberty is involved. 16. It is not in dispute that there is no eyewitness to the occurrence. The statements recorded during investigation of the witnesses do not attribute direct knowledge of the incident to any witness. The material placed on record indicates that the witnesses, at best, express suspicion or belief regarding the involvement of the accused/petitioner. 17. The prosecution case against the petitioner rests substantially on alleged previous enmity between the parties and the statement of witness <u>Jaimun Khatoon</u>. According to the prosecution, witness <u>Jaimun Khatoon</u> disclosed the involvement of the applicant to the informant on 08.04.2026, nearly one year after the occurrence. The informant thereafter informed the police on <u>20.05.2026</u>, and the statement of witness <u>Jaimun Khatoon</u> was recorded on <u>15.06.2026</u>. The explanation offered is that the witness acted under fear while the accused were at large; however, the subsequent delay in communication and recording of the statement remains unexplained on the present material and bears upon its prima facie evidentiary value. 18. It further appears that on 05.06.2026 (Arguments in the bail application were heard on 04.06.2026 and order was passed on 05.06.2026), while considering the bail application of a co-accused persons, the Court noted that the Investigating Officer had not ascertained from the informant the source of her information. The alleged disclosure by witness	
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Cont/6- 21.07.2026	<u>Jaimun Khatoon</u> was not brought to the notice of this Court at that stage, <u>despite the informant's counsel being present.</u> These circumstances form part of the overall appreciation of the prosecution case at this stage. 19. The petitioner is stated to have criminal antecedents involving five cases. While antecedents are a relevant factor, they cannot by themselves be determinative of the question of bail unless supported by substantive prima facie material indicating involvement in the offence under consideration. The Hon'ble Supreme Court in the case of Prabhakar Tewari Vs The State of U.P. (2020) 11 SCC 648 has held that: <i>"7....The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These facts by themselves cannot be the basis of refusal for bail."</i> The Hon'ble Supreme Court in the case of Maulana Md. Amir Rashadi Vs State of Uttar Pradesh and Another reported in (2012) 2 SCC 382 has held that: <i>"Criminal antecedents cannot be the sole ground for rejecting the bail application of the accused. [For reference Para No. 10 of (2012) 2 SCC 382 may be seen.]</i> 20. The Hon'ble Supreme Court in Bhagirathsinh S/o Mahipat Singh Judeja v. State of Gujarat, (1984) 1 SCC 284, has held that while considering a prayer for bail, the first duty of the Court is to ascertain whether a prima facie case is made out against the accused and that "if there is no prima facie case there is no question of considering other circumstances." Thus, the existence of a prima facie case constitutes the foundational requirement for denial of liberty at the pre-trial stage. 21. The jurisprudence governing grant of bail consistently emphasizes the primacy of	
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Cont/7- 21.07.2026	personal liberty. In State of Rajasthan v. Balchand, (1977) 4 SCC 308, the Hon'ble Supreme Court enunciated the celebrated principle that "bail, not jail" is the governing rule. In Gudikanti Narasimhulu v. Public Prosecutor, (1978) 1 SCC 240, it was observed by the Hon'ble Supreme Court that personal liberty, deprived when bail is refused, is too precious a value of our constitutional system recognised under article 21 that the curial power to negate it is a great trust exercisable, not casually but judicially, with lively concern for the cost to the individual and the community. 22. In State of U.P. v. Amarmani Tripathi, (2005) 8 SCC 21, the Hon'ble Supreme Court identified the existence of a prima facie case or the reasonable grounds to believe that the accused had committed the offence as the foremost consideration while adjudicating a bail application. The Court observed that the question whether there are reasonable grounds for believing that the accused has committed the offence is the first factor requiring examination. 23. Likewise, in Sanjay Chandra v. CBI, (2012) 1 SCC 40, the Hon'ble Supreme Court reiterated that the object of bail is to secure the attendance of the accused during trial and that pre-trial detention cannot be employed as a measure of punishment. The Court emphasized that the seriousness of the allegation alone cannot justify denial of liberty. 24. More recently, in Satender Kumar Antil v. CBI, (2022) 10 SCC 51, the Hon'ble Supreme Court reaffirmed that grant of bail is the rule and refusal is an exception, and that courts must remain mindful of the constitutional mandate under Article 21 of the Constitution of India.	
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Cont/8- 21.07.2026	25. Applying the aforesaid principles to the facts of the present case, <u>this Court finds that the prosecution case against the petitioner is not supported by any eyewitness account or independent forensic or circumstantial evidence. The case rests substantially on motive arising out of alleged enmity and the belated statement of witness Jaimun Khatoon, the evidentiary value of which is a matter for trial. At this stage, the material does not disclose a strong prima facie case warranting continued incarceration of the petitioner.</u> 26. Accordingly, without expressing any opinion on the merits of the case, the petitioner is directed to be released on bail on furnishing bail bonds in the sum of Rs. 10,000/- (Ten thousand only) with two sureties in the like amount to the satisfaction of the Ld. Jurisdictional Magistrate. This order is further subject to the following conditions: (i) The petitioner shall cooperate with the investigation and make himself available for interrogation whenever required. (ii) The petitioner shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer. (iii) The petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police. (iv) The petitioner shall mark his presence before police station concerned on 10th Day of every month between 02:00 P.M. to 05:00 P.M. until the examination of the independent witnesses is not over. (v) The petitioner shall maintain law and order. (vi) The petitioner shall, at the time of execution	
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of the bond, furnish his address and mobile number to the investigating officer, and the court concerned, and shall not change the residence and the mobile number till the final disposal of the case without prior permission of the learned trial court/court concerned.

(vii) The petitioner shall regularly remain present during trial and co-operate the learned court to complete the trial.

27. The observations made herein above are meant to decide this petition only and shall not be binding on the Ld. Jurisdictional Magistrate or any other Ld. Court at the subsequent stages of the case. The bail petition stands disposed of in the above terms.

(Dictated)

Sd/-

(Dinesh Sharma)

Principal Sessions Judge,

Saharsa

21.07.2026

Date of Judgement/Order	21.07.2026
Date of Reserving Judgement/Order	20.07.2026
Uploading Date	25.07.2026
Uploaded by	Sachin Kumar