

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-III

SAMASTIPUR

Criminal Revision. No. 206/2025

In The Matter Of -

Dinesh Ray, S/o-Domi Ray, R/o-Vill-Lagma, P.S.-Ghato, Distt.-Samastipur

..... Petitioner

VERSUS

State of Bihar

..... Opposite Party

Counsel for the Petitioner- Sri Madan Mohan Thakur, Ld. Advocate

Counsel for the Opposite Party - Sri Shiv Shankar Pd. ,Ld. A.P.P for the
State.

Date Of Order- 29th July, 2026

Present- Rahul Kumar

Addl. Sessions Judge-III Samastipur

ORDER

1. This instant revision petition has been preferred by the above stated revisionists against the respondent State of Bihar for setting aside the order dated 24.02.2025 passed by Id. S.D.M, Samastipur in M.R. Case No. 152/2025, whereby he has drawn up a proceeding U/S 126 BNSS by issuing show cause notice against the revisionist as to why the petitioner shall not be execute a bond of Rs. 100000/- with two sureties of like amount for maintaining peace and tranquility for the period of one year.

2. The brief facts leading to this instant revision petition is that the learned Sub- Divisional Magistrate, Samastipur received a report from S.H.O, Ghatho Police station, for initiation of proceeding u/s 126 of BNSS. In police report, briefly, it has been stated that there exist land dispute among the parties for construction of road on account of Govt. fund. Further, it has

been reported that a panchayati was held in between the parties to construct the PCC road and an agreement was signed by the parties in pursuance of the said agreement on 07.06.2019 but on 08.11.2024, one party is creating obstruction for construction of road and there exists intense atmosphere between the parties and there is apprehension of breach of peace and tranquility and occurrence may take place at any time. On the basis of said report, Id. S.D.M. drawn an order dt.24.02.2025 (here in after shall be referred as impugned order) and directed the revisionist to show his cause as to why they should not be ordered to execute a bond of Rs. 100000 with two sureties of like amount to maintain peace and public tranquility for one year.

3. Being aggrieved with the said impugned order dated 24.02.2025 passed by Id. S.D.M, Samastipur in M.R. Case No. 152/25, the present revisionists have preferred this revision on following grounds:-

(I) that the impugned order is not maintainable in the eye of law or on facts and the same is fit to be set aside.

(II) that while passing the impugned order, court of S.DM., Samastipur has not been pleased to apply his mind and order has been passed in the mechanical manner and is fit to be set aside.

(III) that while passing the impugned order, the Id. Court of S.D.M., Samastipur has not been pleased to set forth the substance of information not only this much rather the act which has been committed and for the same there is apprehension of breach of peace is not mentioned in the impugned order and there is non-compliance of u/s.130 of BNSS and only on this ground, the impugned order has no leg to stand and is fit to be set aside.

(IV) that the impugned order is vague and nothing disclosed and is fit to be set aside.

4. Ld. Counsel for revisionists as well as Ld. APP have been heard.

It has been argued on behalf of revisionist that Ld. S.D.M. has passed the impugned order without applying his mind in routine manner as the police report upon which impugned order has been drawn does not disclose any overt act between the parties and there is no apprehension of breach of public peace and tranquility. Further, it has been argued that the police report is also a table work as it does not mention descriptions of the

land for which proceeding has been initiated. Lastly, it was argued that the impugned order is bad at law and liable to be set-aside. In support of his contention, Id. Counsel referred a case law of Hon'ble Patna High Court titled as Balkishun Sao and others Vs Munno Khan AIR 1970 Patna 107.

Per-contra, Ld. A.P.P for the state has submitted that the impugned order passed by the Id. S.D.M is not bad either in law or in facts and the same was initiated on the report of the police concerned and proper compliance u/s 126 of BNSS has been made and there is no illegality in the said order and he has further submitted that the said proceeding was initiated and petitioners including this petitioner have been directed only to give reply of show cause and the order is not final one and for the same no revision can be maintainable. As such the revision petition filed by the petitioners must be dismissed.

5. This court carefully perused the Ld. Trial Court record.

6. On perusal of the Ld. Trial court records as well as impugned order it appears that while passing the impugned order, Id. S.D.M has mentioned in his order that on the basis of report of SHO Ghatho, vide letter no.3/2025, he finds that 08.11.2024 at about 10:00AM on the basis of agreement paper, first party asked to construct road but second party allegedly became abusive and for said reason there exists disputes and there is apprehension of rioting also.

This court also perused the above mentioned case law of Hon'ble Patna High Court. The Hon'ble court has been pleased to hold that a vague order merely stating satisfaction from police report without detailing the specific nature of apprehension or the conduct of parties is legally unsustainable.

In the light of above case law, perusal of impugned order makes it clear that the Id. S.D.M. has clearly mentioned in his order that after perusing report of SHO Ghatho, it appears to him that on 18.11.2024 at 10:00AM, first party asked to construct road on the basis of agreement paper but second party allegedly became abusive and there exists dispute there and possibility of rioting also exist and as such the impugned order cannot be said passed without application of the mind and substance of information. Hence, on the basis of above discussion, this court is of opinion that the impugned order has been passed after compliance of all the provisions as

mentioned in BNSS, the petitioners including this petitioner were served show cause notice as why bonds of Rs.100000 with two sureties of like amount for one year for keeping peace and tranquility shall not be executed by them. It further appears that the revisionist/petitioner has only been directed to give reply of show cause notice. In other words, revisionist/petitioner has been given opportunity to be heard before passing any substantive order against him affecting his rights. Thus, this court, on the basis of above, discussion is of opinion that the impugned order is interlocutory in nature.

Section-438(2) BNSS, 2023 postulates the law that the powers of revision conferred by sub section (1) of section-438, BNSS 2023 shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry trial or other proceedings.

In the matter of Sanjeev Kapur Vs. State (NCT of Delhi) decided on 26.07.2010 in Cri. M.C. No.-2265 of 2010, Hon'ble Delhi High Court has also been pleased to hold that show cause notice is purely interlocutory order. In said case, the petitioner, u/s.-107/111 of Cr.Pc was directed to show cause as to why he should not be ordered to execute a surety bond and a personal bond.

7. In view of the above discussion, this court is of the view that the impugned order is purely interlocutory in nature and is not revisable in view of Section-438(2) BNSS, 2023

Accordingly, this court is of view that present revision petition is devoid of merit and as such, the present revision petition filed by the revisionist is hereby dismissed.

Let a copy of this order along with TCR be sent to the court of Id. S.D.M, Samastipur, Samastipur for information and needful.

Office Clerk is directed to deposit the record in record room as per rule.

Dictated and corrected by me

Rahul Kumar
Addl.Sessions Judge-III
Samastipur
Dt.-29.07.2026

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