

**IN THE COURT OF THE SESSIONS JUDGE,
VAISHALI AT HAJIPUR**

Criminal Miscellaneous No. 80 of 2025

(Arising out of Jandaha P.S. Case No. 410 of 2024)

Shashiranj Kumar, aged about 32 years, S/o Arun Kumar Yadav,
Resident of village Bishanpur P.S. Jandaha, Distt, Vaishali.

.....**Petitioner.**

Versus

1. The State of Bihar**O.P. 1st party**

2. Pramod Rai alias Pramod Kumar, S/o Parichhan Rai, Resident of
village-Bishunpur, P.S.Jandaha, Dist.- Vaishali.....**O.P. 2nd party**

Counsel for the petitioner: - Learned Advocate Sri Prahalad Prasad Chaurasiya

Counsel for the State: -Learned P.P. Sri Shyam Babu Ray

Counsel for the opposite party no. 2: - Learned Advocate Sri Ashok Kumar

Dated: 20-07-2026

Present: Harshit Singh

ORDER

1. This is an application filed on behalf of the informant/petitioner under Section 439(2) of the Cr.P.C. (corresponding to Section 483(3) of the B.N.S.S.) seeking cancellation of regular bail granted to the Opposite Party No. 2 (Pramod Rai) by the learned A.C.J.M.-VII, Vaishali at Hajipur, vide order dated 26.07.2025 in connection with Jandaha P.S. Case No. 410/2024.

2. Heard the learned counsel for the petitioner, the learned Public Prosecutor for the State, and the learned counsel appearing on behalf of Opposite Party No. 2.

3. Prosecution Case: Briefly stated, the prosecution case, as per the written report of the informant Shashi Ranjan, is that on 10.11.2024 at about 10:00 A.M., the informant along with Ram Naresh Kumar Yadav and Akhilesh Rai was harvesting paddy crop in their field situated at Plot No. 1007 under Khata No. 09. At that time, all the accused persons, including Opposite Party No. 2 (Pramod Rai), arrived there forming an unlawful assembly, armed with *lathis*, *dandas*, iron rods, and sharp-edged weapons, and claimed ownership of the land. When the informant protested, the accused persons started beating them. It is specifically alleged that O.P. No. 2,

Pramod Kumar, with the intent to kill, struck Ram Naresh Rai and Akhilesh Rai on their heads with an iron rod, causing head fractures and severe injuries. Upon the order of co-accused Vinod Rai to kill the informant's party, other co-accused persons assaulted the victims with sharp-edged weapons (*Dab* and sword), causing injuries to Sunny Kumar, Manoranjan, and the informant himself. Co-accused Vinod Rai is also alleged to have snatched a gold chain worth Rs. 70,000 from the informant.

4. Submissions on behalf of the Petitioner:

- a. The learned counsel for the petitioner submits that the impugned bail order dated 26.07.2025 suffers from serious legal infirmities and is based on conjectures and surmises.
- b. It is argued that a specific overt act was assigned to O.P. No. 2 in the F.I.R., wherein it is alleged that he assaulted Ram Naresh Rai and Akhilesh Rai on their heads with an iron rod.
- c. It was highlighted that the learned A.C.J.M.-VII had previously rejected the regular bail petition of co-accused Kumod Kumar on 07.05.2025, noting that injuries were inflicted by the accused and "some are grievous in nature". However, the same court inexplicably granted bail to O.P. No. 2.
- d. Furthermore, O.P. No. 2's anticipatory bail was rejected by the learned A.D.J.-V on 07.03.2025 vide ABP No. 3316 of 2024 and his subsequent bail application before the Hon'ble High Court (Cr. Misc. No. 26205 of 2025) was withdrawn on 23.07.2025.

5. Submissions on behalf of Opposite Party No. 2:

- a. The learned counsel for O.P. No. 2 filed a rejoinder raising preliminary objections regarding maintainability, arguing that the petition should have been filed before the trial court that granted the bail under Section 480(5) of the B.N.S.S.
- b. It was vehemently argued that once bail is granted, it cannot be cancelled unless misuse of the privilege is proven, and the petitioner has failed to bring forward any evidence of misuse.

- c. The defence also submitted that the rejection or withdrawal of anticipatory bail does not preclude the trial court from exercising its discretion to grant regular bail upon surrender, and that the F.I.R. stems from a land dispute.

6. **Findings:** Upon perusal of the record, the F.I.R., the injury reports, and the orders of the lower court, this Court observes the following:

- (i) A bare perusal of the F.I.R. reveals a direct and specific allegation against O.P. No. 2 (Pramod Rai) of assaulting Ram Naresh Rai with an iron rod on the head. The injury report and subsequent CT scan opinion from the Primary Health Centre, Jandaha (dated 13.11.2024), clearly note a "linear undisplaced fracture of nasal bone on right side" for Ramnaresh Kumar, unequivocally classifying the injury as grievous in nature.
- (ii) The learned A.C.J.M.-VII, while granting bail to O.P. No. 2 on 26.07.2025, explicitly recorded the finding that "Alleged injury is simple in nature". This observation is factually incorrect and contrary to the medical evidence on record. Granting bail by ignoring vital material on record (i.e., a grievous injury on a vital part of the body) renders the order perverse.
- (iii) It is a matter of record that the same learned A.C.J.M.-VII rejected the regular bail of co-accused Kumod Kumar on 07.05.2025, specifically observing that "some are grievous in nature" and that the "offence is serious in nature". It is highly inconsistent and arbitrary for the learned Magistrate to subsequently grant bail to the principal assailant (O.P. No. 2) by mischaracterizing the injuries as simple.
- (iv) O.P. No. 2's anticipatory bail was rejected by the Sessions Court and he voluntarily withdrew his anticipatory bail application before the Hon'ble High Court on 23.07.2025, only to surrender before the lower court three days later and obtain bail on erroneous grounds.

7. While it is a settled principle of law that cancellation of bail is a harsh order and should not be passed lightly, it is equally well-settled that if a bail order is passed by ignoring material evidence on record, acting on irrelevant material, or if the order is perverse, the superior court is duty-bound to intervene and cancel the bail. The

learned trial court failed to exercise its discretion judiciously by incorrectly noting the injury as simple and ignoring the specific overt act of the accused.

Where an earlier application for anticipatory bail has been rejected, there is a higher burden on the court to furnish specific reasons as to why bail should be granted.

8. Consequently, the objection petition filed by Opposite Party No. 2 is devoid of merit and is hereby rejected.

9. For the reasons discussed above, the present Criminal Miscellaneous Petition is allowed. The order dated 26.07.2025 passed by the learned A.C.J.M.-VII, Vaishali at Hajipur, granting regular bail to Opposite Party No. 2 (Pramod Rai alias Pramod Kumar) in connection with Jandaha P.S. Case No. 410/2024, is hereby set aside and cancelled.

10. Opposite Party No. 2, Pramod Rai alias Pramod Kumar, is directed to surrender before the court below within a period of one month from the date of this order, failing which the trial court shall take all necessary coercive steps in accordance with the law to secure his custody.

Let a copy of this order be sent to the concerned court for information and necessary action along with the LCR.

Typed and corrected by me,

**(Sessions Judge)
Vaishali at Hajipur**