

IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS JUDGE, SAHARSA

Dated, Saharsa, the 17th August, 2026

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

B.A. No. 538/2026 (Arising out of Simri Bakhtiyarpur P.S. Case No. 114/2026)

Md. Majahirul Hassan Petitioner Vs State of Bihar

In the matter of:-

Md. Majahirul Hassan S/o Md. Rafique Ahmad

**Resident of Village Sitanabad Paithan Toli, Ward No. 07, P.S. Bakhtiyarpur,
District Saharsa.Petitioner**

Vs

State of Bihar

.....Opposite Party

Appearance:-

For the Petitioner :- Sri Sudesh Kumar Singh, Advocate

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

Date of proceeding	Order with the signature of the court	Office action taken with date
17.08.2026	This bail petition has been filed on behalf of the petitioner namely Md. Majahirul Hassan S/o Md. Rafique Ahmad, who is in custody since 18.06.2026 in connection with Simri Bakhtiyarpur P.S. Case No. 114/2026 registered under Sections 126(2), 127(2), 118(1), 109, 103(1), 303(2), 352, 351(2) and 61(2) of BNS. 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 18.06.2026. It is further submitted that petitioner bears criminal antecedent of one case vide BKP P.S. No. 375/2024, in which he is on bail. It is further submitted that petitioner is quite innocent and has committed no offence and he has falsely been implicated in this false case. It is further submitted that petitioner is an old person and has no concern with the alleged occurrence. It is further submitted that all the alleged sections are bailable except sections 118(1), 109, 103(1), 303(2) of BNS which have been added just to make the case graver and non-bailable. It is further submitted that petitioner is a man of means and there is no chance of his absconding or tampering with the evidence 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 P.P. for the State	

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<u>Cont/2- 17.08.2026</u>	assisted by the Ld. Counsel for the informant have vehemently opposed the prayer of bail. 5.Rival submissions considered, Record perused. 6. The prosecution case, in brief, is that on April 12, 2026, at about 5:00 PM, the informant, Shakeela Khatun, alleges that her nine-year-old son, Mohammad Owais, was forcibly abducted from outside her residence by accused Md. Saad Hasan, Md. Waqar Hasan, Md. Zaid Hasan, and Md. Mozahirul Hasan. The accused allegedly dragged the child to a nearby field, where Zaid, Waqar, and Mozahirul restrained and instigated the killing, while Saad fatally slit the child's throat with a knife. Meanwhile, the remaining co-accused allegedly trespassed into the informant's house, confined her and her family, and assaulted them. Co-accused Md. Ansar allegedly attacked the informant's daughter, Kudrati Praveen, with a knife with intent to kill. The accused also allegedly looted ₹50,000 in cash and jewellery worth ₹1,50,000. It is further alleged that the principal assailants returned to the scene, confessed to the murder, threatened the informant with death to prevent her from approaching the police, and fled. The informant and local villagers subsequently found the child lying in a pool of blood in the field and took him to the Sub-Divisional Hospital, Simri Bakhtiyarpur, where he was declared dead. 7.Though the petitioner is named in the FIR and the petitioner along with other co-accused persons allegedly dragged the deceased to the fields. However, PW- Kudarti Parween, who is the sister of the deceased, have narrated a different story to the police. As per the statement of Kudarti Parween recorded under Section 180 of BNSS and Section 183 of the BNSS, only co-accused Saad Hasan is involved in the incident. Pertinently, in the post-mortem report, no marks of dragging were found on the person of the deceased. The post-mortem report shows that one incised wound of size 6cm x 1.5cm x 1cm above cricoid cartilage of neck, penetrating wound on left side of below the mandible of size 3cm x 1cm x muscle deep was found. 8.The alleged independent witnesses namely, Gopal Bhagat at para no. 115, independent witness Nakib Khan at	
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<u>Cont/-3</u> 17.08.2026	para no. 116, independent witness Md. Samsher Khan at para no. 117, named only co-accused Md. Saad Hasan in the incident and their statements are entirely different from the version of the FIR. The statements of Kudrati Praveen, Gopal Bhagat, Nakib Khan, and Md. Samsher Khan have created a serious doubt about the involvement of the petitioner in the instant case. 9.The petitioner is in custody since, 18.06.2026 and charge sheet against the petitioner has already been filed. 10.Before proceeding further, it would be apposite here to take note of the authoritative pronouncement of the Hon'ble Supreme Court on the law relating to the field governing the grant or refusal of bail applications. 11.In the case of <i>State of U.P. v. Amarmani Tripathi</i>, (2005) 8 SCC 21: 2005 SCC (Cri) 1960 (2), the Hon'ble Supreme Court has held that: “22. While a detailed examination of the evidence is to be avoided while considering the question of bail, to ensure that there is no prejudging and no prejudice, a brief examination to be satisfied about the existence or otherwise of a prima facie case is necessary....” 12. In <i>Prasanta Kumar Sarkar v. Ashis Chatterjee</i>, (2010) 14 SCC 496: (2011) 3 SCC (Cri) 765, the Hon'ble Supreme Court has observed that: “...It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are: (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the accusation; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being influenced; and (viii) danger, of course, of justice being thwarted by grant of bail. [See <i>State of U.P. v. Amarmani Tripathi</i> [(2005) 8	
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<u>Cont/-4</u> 17.08.2026	SCC 21: 2005 SCC (Cri) 1960 (2)] (SCC p. 31, para 18), <i>Prahlad Singh Bhati v. NCT of Delhi</i> [(2001) 4 SCC 280: 2001 SCC (Cri) 674], and <i>Ram Govind Upadhyay v. Sudarshan Singh</i> [(2002) 3 SCC 598: 2002 SCC (Cri) 688].]" 13. In the Case of <i>Mahipal v. Rajesh Kumar, (2020) 2 SCC 118: (2020) 1 SCC (Cri) 558</i>, the Hon'ble Supreme Court has held that: "...12. The determination of whether a case is fit for the grant of bail involves the balancing of numerous factors, among which the nature of the offence, the severity of the punishment <u>and a prima facie view of the involvement of the accused are important.</u> No straitjacket formula exists for courts to assess an application for the grant or rejection of bail. At the stage of assessing whether a case is fit for the grant of bail, the court is not required to enter into a detailed analysis of the evidence on record to establish beyond reasonable doubt the commission of the crime by the accused. That is a matter for trial. <u>However, the Court is required to examine whether there is a prima facie or reasonable ground to believe that the accused had committed the offence and on a balance of the considerations involved, the continued custody of the accused subserves the purpose of the criminal justice system.</u> Where bail has been granted by a lower court, an appellate court must be slow to interfere and ought to be guided by the principles set out for the exercise of the power to set aside bail." [Emphasis added]. 14. Even otherwise, the jurisprudence governing grant of bail consistently emphasizes the primacy of personal liberty. In <i>State of Rajasthan v. Balchand, (1977) 4 SCC 308</i>, the Hon'ble Supreme Court enunciated the celebrated principle that "bail, not jail" is the governing rule. In <i>Gudikanti Narasimhulu v. Public Prosecutor, (1978) 1 SCC 240</i>, 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,	
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<u>Cont/-5</u> 17.08.2026	with lively concern for the cost to the individual and the community. 15. 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. 16. 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. 17. Reverting to the facts of the case, the findings of the post mortem report, the statements of PWs-Kudarti Parween, Gopal Bhagat, Nakib Khan and Md. Samsher Khan have created a serious doubt about the prima facie involvement of the petitioner in the incident is question. It is clarified that this Court has not reached on the above conclusion by meticulous examination of the case of the prosecution, rather the contradictions in the case of the prosecution is patently obvious. 18. It is highly unlikely, in the background of the facts and circumstances of the case, that the petition would indulge in tempering with the evidence and would try to influence the witnesses of the prosecution or flee from justice. 19. Considering the aforesaid facts and circumstances, the case law quoted herein above, and without commenting upon the merits of the case, a case to grant the bail to the petitioner is made out. Resultantly, the prayer for bail of the petitioner is allowed. The petitioner Md. Majahirul Hassan be released on bail subject to his furnishing bail bonds in the sum of Rs. 10,000/- (Ten Thousand) with two sureties in the like amount each to the satisfaction of the learned Magistrate, where the case is presently pending with further subject to the following conditions:	
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(i) The accused/petitioner shall appear before the Ld. Trial Court/Ld. Jurisdictional Magistrate on each and every date fixed and shall not seek unnecessary adjournments.
(ii) The accused/petitioner shall not directly or indirectly induce, threaten, promise or influence any witness acquainted with the facts of the case.
(iii) The accused/petitioner shall not tamper with the prosecution evidence in any manner.
(iv) The accused/petitioner shall not leave the territorial jurisdiction of the Trial Court without prior permission of the Court.
(v) Any violation of the aforesaid conditions shall entail cancellation of bail in accordance with law.

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

(Dictated)
Sd./
(DINESH SHARMA),
Principal Sessions Judge,
Saharsa
17.08.2026

Date of Judgement/Order	17.08.2026
Date of Reserving Judgement/Order	17.08.2026
Uploading Date	19.08.2026
Uploaded by	Sachin Kumar