

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No. 25387 of 2016**

Arising out of P.S. Case No. -13 Year- 2016 Thana -  
BARBIGHA District- SEKHPURA

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Bhushan Singh S/o Late Sarju Singh Aged about 70 Years  
R/o Village Pinjari, P.S. Barbigha, District Sheikhpura.

.... .... Petitioner/s

Versus

The State of Bihar.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Dinkar Kumar, Adv.

For the Opposite Party/s: Sri Nagendra Prasad, Adv.

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**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH**

ORAL ORDER

**05. 11.08.2016**

Heard learned counsel for the Petitioner and  
learned counsel for the State.

The Petitioner is languishing in custody since  
05.02.2016 in connection with S.Tr. No. 42 of 2016  
arising out of Barbigha P.S. Case No. 13 of 2016 pending  
in the Court of Sessions Judge, Sheikhpura for the  
offences registered under Section 307/34 and the other  
allied sections of the Indian Penal Code.

The prosecution case, in brief, as alleged in the  
FIR is that while the father of the informant was milking  
his cow the petitioner and others came there and  
assaulted by means of sword for cutting the neck of his  
father but his father saved his neck through right hand,  
as a result of which below portion of right elbow was  
amputated.

It has been submitted on behalf of the petitioner  
that the petitioner is in custody since 05.02.2016.  
Charge-sheet has been submitted in the case. There is no  
allegation of tampering of witnesses alleged against the

petitioner. The petitioner has falsely been implicated in the present case and the other case has been instituted by the petitioner side in which the Informant and his family members are accused. It is further submitted that no offence under Section 307 IPC is made out against the petitioner as injury report does not corroborate with the allegations made in the FIR.

On behalf of the State, it has been submitted that the petitioner is named in the FIR. There is specific allegation against the petitioner for giving a sword blow upon the informant's neck but due to intervening circumstance where the informant tried to save himself by using his arm he sustained injury on the lower portion of his elbow, hence, it can not be said that the petitioner had no intention to commit the murder of the informant. He was saved because of the intervening circumstance.

From the perusal of the injury report, it also appears that there is a corroborative injury of sharp-cutting on the right fore-arm of the Informant.

Considering the aforesaid facts and circumstances of the case, I am not inclined to grant bail to the petitioner **at this stage**. The prayer for bail is rejected.

**(Sudhir Singh, J.)**

Vikash/-

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