

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.2024 of 2019**

Arising Out of PS. Case No.-60 Year-2016 Thana- BIRPUR District- Supaul

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Baidnath Kherwar, S/o Late Bhatay Kherwar, Resident of Village-  
Bhawanipur, P.S.- Birpur, District- Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

**Appearance :**

|                            |   |                             |
|----------------------------|---|-----------------------------|
| For the Petitioner/s       | : | Mr. Ansul, Advocate         |
|                            |   | Mr. Agreya Pratap, Advocate |
| For the Opposite Party/s : |   | Mr. Nityanand, APP          |

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**CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA**  
**ORAL ORDER**

4      07-03-2019                      Heard learned counsel for the petitioner and the  
  
learned counsel appearing on behalf of the State.

The petitioner is in custody since 06.01.2018 in connection with Birpur P.S. Case No.60 of 2016 registered for the offence under Sections 147, 148, 149, 341, 323, 324, 307, and 504 of the Indian Penal Code. Later on, Section 302 of the I.P.C. has been added.

Learned counsel for the petitioner submits that the present petitioner has been falsely implicated on the basis of an earlier land dispute and though it is alleged that he had attacked the deceased with *Farsa*, no corresponding *Farsa* wound was found on the person of the deceased, who is the father of the informant. Learned counsel for the petitioner submits that other similarly situated co-accused persons,



namely, Mithu Kherwar @ Mithilesh Kumar, Ram Nath Kherwar, Ashrafi Kherwar and Chandan Kherwar @ Chandan Kherwar @ Chandra Kherwar have since been extended the privilege of bail in Cr.Misc. No.31711 of 2016, Cr.Misc. No.35666 of 2016, Cr.Misc. No.33584 of 2016 and Cr.Misc. No.32019 of 2017, vide order dated 16.09.2016, 16.09.2016, 20.08.2016 and 13.07.2017 respectively.

Diary in the present case was called for earlier, which has since been received.

Learned counsel for the State after perusal of the case diary submits that there is evidence of head injury on the person of the deceased, but the deceased did not die immediately after the occurrence but after treatment of about one month the deceased succumbed to his injury. It is further submitted that the evidence of there being a *Farsa* blow on the head does not seem available in the post-mortem report but there are several injuries on the person of the deceased and also on the head region.

However, considering that there is considerable cloud over the prosecution story and that there is also a history of litigations between the parties and that the petitioner has got no criminal antecedents, let the petitioner, above named, be



released on bail on his furnishing bail bond of Rs.10,000/-  
(Ten thousand) with two sureties of the like amount each to the  
satisfaction of the learned Additional Chief Judicial  
Magistrate, Birpur (Supaul), in connection with Birpur P.S.  
Case No.60 of 2016, subject to the following conditions:

(1) One of the bailors will be his own  
blood relative, preferably, father, mother, brother,  
sister and/or his wife.

(2) The petitioner shall not indulge  
himself in any similar offence till conclusion of  
the trial.

(3) The petitioner shall remain  
physically present in court on each and every date  
during trial and in the event of his failure on two  
consecutive dates without sufficient reasons, his  
bail bonds shall be liable to be cancelled by the  
learned court concerned.

(4) The petitioner shall co-operate with  
the investigation, if not already concluded, and  
make himself available as and when so required  
and in case of failure, the State shall be at liberty to  
move for cancellation of bail.

**(Anjana Mishra, J)**

PNM/Rakesh

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