

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43783 of 2025

Arising Out of PS. Case No.-519 Year-2024 Thana- BHAGWANPUR HAT District- Siwan

Subham Kumar Tiwari @ Subham Tiwari S/o Sri Prabdhhat Tiwari R/o
Village- Ganauti, P.S.- Mashrakh, District- Saran

... .. Petitioner

Versus

The State of Biha

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr.Mthilesh Kumar, Advocate
For the State	:	Mr.Uma Shankar Prasad Singh, APP
For the Informant	:	Mr.Tribhuwan Narayan, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 10-09-2025 Heard learned counsel appearing on behalf of the

petitioner, learned A.P.P. for the State and learned counsel

for the informant.

2. The accused/petitioner seeks bail in connection

with Bhagwanpur Hat P.S. Case No. 519 of 2024 registered

for the offences under Sections 103(1), 3(5) of the Bhartiya

Nyay Sanhita, 2023 (in short, the ‘B.N.S.’).

3. The accused/petitioner is named in the First

Information Report and is in custody since 13.02.2025.

4. As per FIR, the son of the informant was called by

one named co-accused namely, Chhotu Kumar on

10.12.2024 at about 6:00 P.M. to attend one Orchestra



Party, where son of the informant was murdered by other named co-accused persons including this petitioner.

5. It is submitted by learned counsel appearing on behalf of the petitioner that informant is not the eye witness of the occurrence and entire occurrence narrated on the basis of hearsay input as provided by one of the co-accused namely, Chhotu Kumar, who, as alleged, called the son of the informant from his home to attend the Orchestra Party. It is pointed out that said Chhotu Kumar was granted bail by one of the learned coordinate Bench of this Court through Cr. Misc. No. 28010/2025 dated 07.05.2025.

6. It is submitted that statement of said co-accused as recorded under section 161 of the Cr.P.C. during investigation, is of no bearing for the reasons that he made accused in this case.

7. Arguing further, it is submitted that another incriminating material available against this petitioner is also non-convincing, which is the confessional statement of co-accused Golu Kumar. It is submitted that if the confessional statement of said Golu Kumar be accepted on its face, then,



certainly two stab injuries must be present on the body of the deceased son of the informant, but, upon post-mortem examination, only one stab injury on left chest was found. It is further pointed out that there is a contradiction between the statement of Chhotu Kumar as recorded under section 161 Cr.P.C. to that of confessional statement of co-accused Golu Kumar, even through his statement, co-accused Chhotu Kumar said that the deceased was assaulted by other accused persons also including petitioner, which creates a doubt in view of injury, which found upon the deceased during post-mortem. It is further submitted that the alleged knife, which was said to be used in committing murder, was recovered in furtherance of confessional statement of co-accused Golu Kumar from open Dalan of uncle of petitioner, which is accessible by general public and therefore false implication by planting weapon cannot be ruled out and, moreover, the seized knife was not sent for forensic examination to connect *prima facie* this petitioner to the present crime in question.

8. While concluding argument, it is submitted that petitioner is a man of clean antecedent and, moreover,



investigation of this case is already completed and as such, there is no chance of tampering with the evidence.

9. Learned A.P.P. for the State duly assisted by Mr. Tribhuwan Narayan, learned counsel for the informant, while opposing the prayer for bail of the petitioner, submitted that as per statement of co-accused Chhotu Kumar and as per confessional statement of co-accused Golu Kumar, this petitioner was actively involved in the occurrence and inflicted knife injury upon the son of the informant. It is submitted that in furtherance of confessional statement of Golu Kumar, knife was recovered but he could disputed the factual submission as discussed aforesaid.

10. In view of aforesaid factual submission and by taking note of the fact as entire implication is *prima facie* based upon the hearsay input received from the co-accused Chhotu Kumar, who is on bail, coupled with the fact that alleged knife was not recovered on instance of this petitioner, where investigation of this case is already completed and petitioner remains in custody since 13.02.2025, accordingly, above-named petitioner is directed to be released on bail,



furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate - 1st Class, Siwan/ concerned court, in connection with Bhagwanpur Hat P.S. Case No. 519 of 2024, subject to the condition as laid down under Section 437(3) Cr.P.C/Section 480(3) of the Bhartiya Nagarik Suraksha Sanhita (in short “B.N.S.S.”) with further condition:

- (I) That petitioner shall not made any attempt to delay trial, failing so, the State/informant shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner, which shall be decided by trial court itself after giving opportunity of hearing to the petitioner.
- (ii) Accused/Petitioner shall physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(Chandra Shekhar Jha, J)

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