

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.63761 of 2024**

Arising Out of PS. Case No.-718 Year-2021 Thana- KHAGARIA District- Khagaria

Deenbandhu Sharma @ Dinbandhu Sharma son of Hariom Sharma @ Hariom  
Prakash Sharma @ Hariom Mistri R/O-Ranisakarpura, P.S-  
Khagaria(gangaur), Districtt- Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

|                      |   |                                |
|----------------------|---|--------------------------------|
| For the Petitioner/s | : | Mr. Shashank Shekhar, Advocate |
| For the State        | : | Mr. Nawal Kishore Prasad, APP  |
| For the Informant    | : | Mr. Ram Sumiran Rai, Advocate  |

**CORAM: HONOURABLE MR. JUSTICE RAJIV ROY**  
**ORAL ORDER**

4      22-01-2025                                      Heard Mr. Shashank Shekhar, learned counsel  
for the petitioner and Mr. Ram Sumiran Rai, learned counsel  
representing the informant as also learned APP for the State.

2. The petitioner is in judicial custody in connection with Khagaria (Gangaur) P.S. Case No. 718 of 2021 for the offences punishable under Sections 341, 323, 307, 325, 504, 506 and 34 of the Indian Penal Code and later on added section 302 of the Indian Penal Code, lodged on 10.02.2021 by the informant, Ashok Keshri.

3. As per the prosecution story, the allegation is that due to construction of house there was scuffle between the parties and further on the order of Hariom Sharma, this petitioner gave 'khanti' blow on the head of the informant which proved fatal.



4. Learned counsel for the petitioner submits that earlier the bail application preferred by this petitioner was rejected vide order dated 19.07.2023 in Cr. Misc. No. 36184 of 2023 and as such, second attempt. He do not have criminal antecedent, is in custody since 02.09.2022 (paragraph no.5 of the petition). It is his further submission that though the role has been assigned, there was no intention and in such scuffle the assault took place, the fact remains that the victim succumbed to the injuries after 14 days inasmuch as the occurrence took place on 10.09.2021 while the death took place on 24.09.2024. Further, there is no sight of conclusion of the trial and if granted relief, he shall be diligently appearing in it.

5. Learned counsel representing the informant as also the learned APP for the State opposes the prayer submitting that allegation of giving iron rod blow on the head causing injury which ultimately proved fatal is assigned to this petitioner.

6. In this case, on 06.12.2024, a report was called for from the learned Trial Court as the petitioner has already completed two years in custody. In response, vide letter no. 89 dated 11.12.2024, the Trial Court report has been received and read as follows:-

*From:- Jitendra Kumar-II  
District & Additional Sessions Judge-V,  
Civil Court, Khagaria.*



To,

*The Assistant Registrar,  
Hon'ble High Court of Judicature at Patna.*

*Khagaria, dated 11<sup>th</sup> December, 2024*

*Subject:- Regarding submission of Report of trial in  
connection with S.T. No. 135 of 2023  
(arising out of Khagaria (Gangaur) P.S. No.  
718 of 2021)*

*Ref:-  
dated 06.12.2024  
63761 of 2024.*

*Hon'ble High Court's order  
passed in Criminal Misc. No.*

*Sir,*

*In pursuance of the subject and reference  
noted above I have to say that the call for report regarding of  
the case of S.T. No 135 of 2023 (arising out of Khagaria  
(Gangaur) P.S. No. 718 of 2021) by the Hon'ble court regarding  
this I have to say that this case record is pending for  
prosecution evidence. Prosecution has not produced any one  
witnesses before the court till today. Further, it is submission  
that during trial issued summon to the prosecution witness &  
there after Baleable warrant has been issued against the  
witness and also several time directed to APP for production of  
prosecution witness. Till Today has not produced any one  
witness before court by the prosecution. Further, It is mention  
that, If supported the prosecution. I will be try to conclude the*



*trial at once.*

*Therefore, I humbly request you Sir to put up this report before Hon'ble High Court for kind consideration.*

*Yours faithfully,*

*District & Addl. Sessions Judge-V  
Civil Court, Khagaria*

7. The letter clearly show the sorry state of affairs of the Trial Court. The direction/request was made to the Trial Court (while rejecting the bail application of the petitioner) to see to it that the trial is concluded. It seems the same was not taken seriously and even the report has been submitted in a very casual manner. The earlier Cr.P.C. and the present BNSS gives ample power to the Trial Court to summon, issue bailable/non-bailable warrant to ensure presence of the witnesses so that the trial is taken to its logical conclusion. The report does not show that any serious effort was taken by the Trial Court despite the direction/request made by the High Court.

8. The report clearly shows that the Trial Court has failed to examine even one witness, in that background, since the petitioner has completed more than two years in custody, this Court has taken note of the submission of the learned counsel for the petitioner that there was no intention to kill which reflects from the fact that the death took place almost two



weeks later, he do not have criminal antecedent, in that background, is inclined to extend him the privilege of bail.

9. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Additional District Judge-VI, Khagaria in connection with Khagaria (Gangaur) P.S. Case No. 718 of 2021, subject to the following conditions:

(i) one of the bailor should be the family member/relative of the petitioner who shall provide official document to show his *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial Court failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for next six months to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;



(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of bail bonds.

10. Let a copy of the order be sent to the learned Principal District Judge, Khagaria for his perusal and necessary action.

**(Rajiv Roy, J)**

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