

IN THE COURT OF ADDL. SESSIONS JUDGE-II, Katihar <i>Present:- Asutosh Rai, Addl. Sessions Judge, II, Katihar</i> <i>[Date of judgment- 20 May 2026]</i> <i>[S. Trial No. 300/2025]</i> <i>Police-station-Barari</i> <i>Barari P.S. case No. 274/2024 F.I.R. U/S- 310 (2) of the B.N.S.</i>	
<i>Complainant/Informant</i>	<i>State of Bihar through informant namely Pankaj Chaudhary, S/o- Late Sunil Prasad Jaiswal, R/O-village-Baluwa, Ward No.- 02, P.S.-Barari, Distt.-Katihar</i>
<i>Represented By</i>	<i>Sri Md. Ezaj Alam Ld. A.P.P.</i>
<i>Accused</i>	<i>1. Upen Mirdha, S/O- Laxman Mirdha , aged about 22 years, R/o- Giddhabari Chauk, P.S.- Barari, Distt.- Katihar,</i> <i>2. Md. Shahbaj, S/O Md. Israil, aged about 21 years,</i> <i>3. Md. Janabul @ Junaid, S/O Md. Kadir, aged about 24 years, Both R/o- Vill- Hussaina, P.S.-Barari, Distt.- Katihar,</i> <i>4. Vicky Kumar @ Vikram Kumar, S/O Rajat Mahto, aged about 24 years, R/o- Ashram Tola, P.S.-Barari, Distt.- Katihar,</i> <i>5. Chandan Kumar Mandal S/O Sukhdeo Mandal, aged about 32 years, R/o- Vill- Bhandar Tal, P.S.-Barari, Distt.-Katihar,</i> <i>6. Nawaj Sharif @ Mitthu S/O- late Imran Ali, aged about 32 years R/O-Giddhabari Chauk, P.S.- Barari, Distt.-Katihar,</i> <i>7. Md. Aslam, S/o- Ataur Rahman, aged about 21 years, R/o- Belwa Chauk, P.S.-Barari, Distt.-Katihar,</i>
<i>Represented By</i>	<i>For defense : Sri Rakesh Kumar, Shri Mahanad Yadav, Shri Nisar Ahmad, Id. Advocates</i>

<i>Date of Offence</i>	11-09-2024
<i>Date of F.I.R.</i>	11-09-2024
<i>Date of Charge-sheet</i>	03-03-2025
<i>Date of Framing of Charge</i>	06-05-2025
<i>Date of Commencement of evidence</i>	30-01-2026
<i>Date of which judgment is reserved</i>	12-05-2026
<i>Date of Judgment</i>	20-05-2026
<i>Date of Sentencing Order, if any</i>	N/A

Accused Details

<i>Rank of the Accused</i>	<i>Name of Accused</i>	<i>Date of Arrest/ Surrender</i>	<i>Date of Release on Bail</i>	<i>Offences Charged with</i>	<i>Whether Acquitted or Convicted</i>	<i>Sentence Imposed</i>	<i>Period of Detention Undergone during Trial for purpose of section 428 of Cr.P.C.</i>
01	Upen Mirdha	5-12-24	05-07-25	U/S- 310(2) & 317 (3) of the B.N.S.	Acquitted	N/A	N/A
02	Md. Shahbaj	5-12-24	05-07-25	DO	DO	DO	DO
03	Md. Janabul	5-12-24	N/A	DO	DO	DO	DO
04	Vicky Kumar @ Vikram Kumar	5-12-24	21-06-25	DO	DO	DO	DO
05	Chandan Kumar	5-12-24	19-05-25	DO	DO	DO	DO

	Mandal						
06	Nawaj Sharif @ Mitthu	5-12-24	N/A	DO	DO	DO	DO
07	Md. Aslam	5-12-24	N/A				

JUDGMENT

1. The accused persons namely Upen Mirdha, Md. Shahbaj, Md. Janabul, Vicky Kumar @ Vikram Kumar, Chandan Kumar Mandal, Nawaj Sharif @ Mitthu and Md. Aslam stand charged for the offences punishable U/S- 310(2) & 317 (3) of the B.N.S. as leveled against them.

CASE OF PROSECUTION/BRIEF FACTS:

2. As per written report of informant namely Pankaj Chaudhary prosecution case in nutshell is that informant namely Pankaj Kumar Chaudhary loaded a written report before S.H.O. Barari alleging therein that on 11.09.2024, between 12:00-01:00 A.M., six to seven men, wearing black cloth over their faces, armed with weapons, two of whom had two large guns and the other had country-made pistols. They opened the door of his house by placing a thick iron rod between the two doors. After that, all the men entered in his mother's room. After the commotion, he woke up and came out of his room and found his mother, his wife and his son in a corner. They threatened him with the weapon and took away his mother's gold necklace, his wife's mangalsutra earrings and his gold chain. All the gold jewelry worth around four to five lakhs rupees and they took away five lakhs rupees in cash. They are all terrified.

INSTITUTION OF CASE/ INVESTIGATION/ INQUIRY

3. On the basis of written report of informant namely formal F.I.R. bearing Barari P.S. case No. 274/2024 U/S- 310 (2) of the B.N.S. was instituted against the unknown accused persons and after investigation I.O. of this case submitted charge sheet bearing no. 51/25 u/s- 310 (2) & 317(3) of the B.N.S. against the accused namely Upen Mirdha, Md. Shahbaj, Md. Janabul, Vicky Kumar @ Vikram Kumar, Chandan Kumar Mandal, Nawaj Sharif @ Mitthu and Md. Aslam.

4. On receipt of charge-sheet *Ld. A.C.J.M.-I*, Katihar took cognizance of the offence u/s- 310 (2) & 317(3) of the B.N.S. against the accused namely Upen Mirdha, Md. Shahbaj, Md. Janabul, Vicky Kumar @ Vikram Kumar, Chandan Kumar Mandal, Nawaj Sharif @ Mitthu and Md. Aslam and having seen that the sections as levelled against the aforesaid accused persons is exclusively triable by the court of sessions, *Ld. A.C.J.M.-I*, Katihar supplied the Xe-rox copy of police papers as per requirement of law to the *ld. advocate* of aforesaid accused persons and *ld. court* committed the case record to the court of Sessions for further trial. Later on, as per order of the Principal District and Sessions Judge, Katihar case record came to the file of this court for further trial and disposal.

CHARGES AGAINST ACCUSED PERSONS

5. Later on, after completion of the appearance of the aforesaid accused persons namely Upen Mirdha, Md. Shahbaj, Md. Janabul, Vicky Kumar @ Vikram Kumar, Chandan Kumar Mandal, Nawaj Sharif @ Mitthu and Md. Aslam before the court and after considering the materials available on record and on hearing the *ld. A.P.P.* for State as well as *ld. counsel* for the aforesaid all accused persons, court framed the charges u/s- 310 (2) & 317(3) of the B.N.S. in written against the aforesaid all accused persons and the contents of the same were read over and explained to the aforesaid all accused persons in hindi to which they denied and pleaded to be not guilty and claimed to be tried. Hence the trial.

PROSECUTION EVIDENCE

6. In order to substantiate its case prosecution side has examined altogether (05) witness in the support of its case. They are:-

Sr. no.	Pws. Number	Description
01	PW-01-Gopal Mukhia	Hearsay Witness
02	PW-02-Ranjit Kumar Chaudhary	Hearsay witness
03	PW-03- Pankaj Kumar Chaudhary	Informant to this case
04	PW-04- Punam Kumari	Victim to this case

05	PW-05- Anita Kumari	Victim to this case
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7. Prosecution side has also adduce following documentary evidences on the record in the support of its case:-

Sr. No	Exhibit Number	Description
01	Ext.-PW3/P1	Signature of the informant namely Pankaj Chaudhary over written report

STATEMENT OF ACCUSED PERSON

8. After conclusion of the prosecution evidence, the statement of the accused person namely Upen Mirdha, Md. Shahbaj, Md. Janabul, Vicky Kumar @ Vikram Kumar, Chandan Kumar Mandal, Nawaj Sharif @ Mitthu and Md. Aslam were recorded under section 365 of the B.N.S.S. and all incriminating facts were put to them but they denied veracity of prosecution evidences with the contentions that they are innocent and have falsely been implicated in this case. While accused persons neither examined any witnesses in their defense. But in their defence accused persons have got the signature of informant over compromise petition marked as PW3/PA.

9. Now, the point for consideration is whether the prosecution has been able to prove the charges as leveled against the accused persons, beyond the shadow of all reasonable doubts ?

FINDINGS

10. From perusal of the record it is evident that informant to this case namely P. W.-03 Pankaj Kumar Chaudhary has compromised with all accused persons but the charge under section 310(2) and 317(3) of the B.N.S. are not compoundable in nature. So, court doesn't find any valid ground to accept the compromise petition. Hence, all accused persons are being tried in this case on the basis of merit of the evidences available on record. From perusal of the case record it is evident that in order to substantiate its case prosecution has relied on oral as well as on documentary evidences and prosecution has examined altogether 05

witnesses in the support of its case, out of them P. W.-03 Pankaj Kumar Chaudhary has stated in his examination-in-chief that he is the informant in this case. This incident occurred between 12:00-1:00 A.M. on September 11, 2024. he was in his room at home at the time. Six or seven unidentified men wearing masks entered his mother's room, broke through the gate with a thick rod, and entered. All the perpetrators were armed. When he heard the sound of breaking into his mother's room, he went there and he put a gun on his head and took him to his room and also took his mother Poonam Devi, his son Anish Chaudhary and his wife Anita Devi to the same room and started beating them and locked them from outside. He called his housekeeper, Gopal Mukhiya, from his phone. He came and opened the gate and let us out. By then, the accused had fled. The accused broke into the Godrej cupboard and fled with 5-6 lakh rupees, all the jewelery, and other valuables. The police recovered some money from the accused but the jewelry was not recovered. He had given a written application to the police station bearing his signature which he recognizes and which is marked as Exhibit PW3/P1. He recognizes the accused Junaid, Aslam, Nawazuddin @ Nawaz and Chandan present in the court today, he recognizes the absent accused Upen Mirdha, Vicky Kumar @ Vikram Kumar but he does not recognize another accused Shahnawaz in this case.

During the cross-examination by Nawaz and Aslam P. W.-03 has deposed that he filed a case against unknown persons. Nawaz and Aslam are from his village and both were not present at the scene at the time of the incident. He have entered into a compromise with both the accused, the agreement is signed which is marked as Exhibit PW3/PA.

During the cross-examination on the behalf of Upen Mirdha, Chandan Kumar Mandal, Vicky Kumar, Shahnawaz and Junaid of P. W.-03 has deposed that Upen Mirdha, Chandan Kumar Mandal, Vicky Kumar, Shahnawaz, and Junaid are all residents of his village or nearby. The accused were not present at the scene on the day of the incident. He gave a statement to the police, but he did not name these

individuals. The police did not conduct identification parade of the accused before him.

11. P. W.-01 Gopal Mukhiya has stated in his examination-in-chief that this incident occurred two and a half years ago. He was at home when Pankaj Chaudhary called him on his mobile phone and told him that his house had been robbed. He then went to Pankaj's house. He didn't see the robber, but he did see that the robbers had locked Pankaj Chaudhary, his mother, his wife, and his young son in a room and left. He opened the room and took out the four men mentioned above. Pankaj told him that all the robbers were wearing cloth over their faces, so he did not recognize any of them. Pankaj told him that there were a total of 10-12 robbers involved in the incident and that they took ₹5-₹6 lakh in cash, jewelry worth ₹5-₹6 lakh, and electricity bills. He does not recognize the plaintiffs present in the court today. It is noteworthy that the accused under imprisonment Md. Nawaz Sharif, Md. Aslam and the accused Chandan Kumar Mandal, Md. Shahbaz who are released on bail are present in the court today, the rest of the plaintiffs are on representation.

During the cross-examination on behalf of all the accused P. W.-01 has deposed that he is voluntarily testifying in court today.

12. P. W.-02 Ranjit Kumar Chaudhary has stated in his examination-in-chief that he is aware of the incident, which occurred in September 2024, but he does not remember the date. He does not know what time it occurred. Pankaj Chaudhary's house was robbed. He doesn't know what was stolen. He didn't see the robbers. When he heard the commotion, he went to Pankaj Chaudhary's house and learned that his house had been robbed. He does not recognize the accused present in court. It is noteworthy that the accused, Md. Nawaz Sharif and Md. Aslam are present in court today. He also does not recognize the other accused in this case.

During the cross-examination by the defence P. W.-02 has deposed that he gave this statement voluntarily. The police did not take

his statement. He does not know much about the incident; he is testifying based on hearsay.

13. P. W.- 04 Poonam Kumari has stated in her examination-in-chief that this incident occurred at 11:00 P.M. on the night of 2024. She was asleep at home. At that time, seven or eight men entered her house, woke her up, demanded her keys and began breaking open the cupboard. Her son, Pankaj Chaudhary, got up and came to her. The accused grabbed him and took him to Pankaj's room. Her daughter-in-law and grandson were already there. Then he locked the four of us in a room, looted it, and then fled. She doesn't know who all did the looting. She does not recognize Junaid, Aslam, Nawazuddin @ Nawaz, Chandan, Upen Mirdha, Vicky Kumar @ Vikram Kumar and Shahnawaz.

During the cross-examination on behalf of all the accused P. W.-04 has deposed that she did not name any accused in her statement to the police. She has given this statement today voluntarily.

14. P. W.-05 Anita Kumari had deposed that the informant in this case, Pankaj Kumar Chaudhary, is her husband. This incident occurred between 12:00 and 1:00 A.M. on September 11, 2024. On the day of the incident, six or seven masked men came to her house, showed her husband a pistol and entered. They entered her house and took gold jewelry and money. She does not know how much money and jewelry the masked men took. This money belonged to her, her husband, and her mother-in-law. She would not recognize the masked man even if he appeared before her. She does not recognize the accused present in court today. It is noteworthy that Nawaz Sharif, Mohammad Aslam and the under trial accused Md. Junaid are present in court today. The remaining accused have not appeared in court today; she cannot recognize them either.

During the cross-examination by accused Nawaz Sharif and Mohammad Aslam P. W.-05 has deposed that she did not see the accused, who is present in court today, at the scene. She has come to testify before this Hon'ble Court today without fear, intimidation or

inducement. The police did not take her statement in connection with this case.

During the cross-examination on behalf of accused Upen Mirdha, Chandan Kumar Mandal, Vicky Kumar, Shahnawaz and Junaid P. W.-05 has deposed that she is testifying in court today voluntarily. She has come before the court today to testify without fear or intimidation.

15. While in their statements recorded u/s 365 of the B.N.S.S. accused persons to this case have denied the veracity of the prosecution case and have claimed to be innocent.

16. While at the time of final argument Id. A.P.P. for the state has fairly submitted that from perusal of the entire case record in entirety it is evident that prosecution case is true but due to compromise prosecution witnesses including informant to this case have given the good by to the prosecution case.

17. While Id. counsel for the defense has argued before this court that from perusal of the oral evidences of the P.W.-03 Pankaj Chaudhary it is evident that he has clearly deposed before this court that he lodged the case against unknown persons. Nawaj and Aslam belong to his village and they were not at the place of occurrence at the time of occurrence. Further, he has clearly stated that rest 05 accused persons either belongs from his own village or the village situated in the vicinity of his village. Further, P. W.-04 and P. W.-05 who are victims to this case have also nothing stated against the accused persons. While, P. W.-01 and P. W.-02 are hearsay witness of this case. So, from above facts it is evident that prosecution has miserably failed to prove the charges u/s 310 (2) & 317(3) of the B.N.S. as leveled against accused namely Upen Mirdha, Md. Shahbaj, Md. Janabul, Vicky Kumar @ Vikram Kumar, Chandan Kumar Mandal, Nawaj Sharif @ Mitthu and Md. Aslam may be acquitted from the charges 310 (2) & 317(3) of the B.N.S. as leveled against them.

18. Now, the question before this court as to whether prosecution has succeeded to prove the charge u/s 310 (2) & 317(3) of the B.N.S. as leveled against the accused namely Upen Mirdha, Md. Shahbaj, Md. Janabul, Vicky Kumar @ Vikram Kumar, Chandan Kumar Mandal, Nawaj Sharif @ Mitthu and Md. Aslam. While from perusal of the case record it is evident that P.W.-03 Pankaj Kumar Chaudhary who is informant and victim to this case has deposed before this court inter alia that he filed a case against unknown persons. Nawaz and Aslam are from his village and both were not present at the place of occurrence at the time of the incident. P. W.-03 has further stated that Upen Mirdha, Chandan Kumar Mandal, Vicky Kumar, Shahnawaz, and Junaid are all residents of his village or nearby. The accused were not present at the place of occurrence on the day of the incident. He gave a statement to the police, but he did not name these individuals. The police did not conduct identification parade of the accused before him. While, P. W.-04 and P. W.-05 who are victims to this case have also nothing stated against the accused persons. While, P. W.-01 and P. W.-02 are hearsay witness of this case. So, from the perusal of oral evidence of prosecution witnesses it is quite clear that prosecution has miserably failed to prove the charges u/s 310 (2) & 317(3) of the B.N.S. as leveled against accused namely Upen Mirdha, Md. Shahbaj, Md. Janabul, Vicky Kumar @ Vikram Kumar, Chandan Kumar Mandal, Nawaj Sharif @ Mitthu and Md. Aslam may be acquitted from the charges 310 (2) & 317(3) of the B.N.S. as leveled against them.

19. So, having consideration the above facts and circumstances of this case as well as contentions raised by Id. Counsel for the defence, I find and hold that prosecution has miserably failed to prove the charges u/s- 310 (2) & 317(3) of the B.N.S. as leveled against aforesaid accused person namely Upen Mirdha, Md. Shahbaj, Md. Janabul, Vicky Kumar @ Vikram Kumar, Chandan Kumar Mandal, Nawaj Sharif @ Mitthu and Md. Aslam. Hence, it is found and hold that aforesaid all accused persons are not guilty for the commission of the offence punishable u/s 310 (2) & 317(3) of the B.N.S. Accordingly they are acquitted from the

charges u/s 310 (2) & 317(3) of the B.N.S. as leveled against them. Since, the accused namely Upen Mirdha, Md. Shahbaj, Vicky Kumar @ Vikram Kumar and Chandan Kumar Mandal are on bail, so aforesaid accused persons and theirs bailors are hereby absolved from the liabilities of the respective bail bonds. Since, accused namely Nawaz Sharif @ Mitthu, Md. Aslam and Md. Janabul @ Junaid Alam are in custody so office clerk is hereby directed to issue release order at once and jail authority is hereby directed to release the aforesaid three accused persons if they are not warranted in other case.

20. Office is directed to send a copy of judgment to the D.M., Katihar in compliance of section 406 of the B.N.S.S.

21. Office is further directed to consign the case record to the D.R.R, Katihar after necessary compliance, if any.

Judgment was dictated and corrected by me and same was pronounced by me in open court

*(Asutosh Rai)
Addl. Sessions Judge II
Katihar
20-05-2026*

*(Asutosh Rai)
Addl. Sessions Judge II
Katihar
20-05-2026*

IN THE COURT OF ADDL. SESSIONS JUDGE-II KATIHAR

Sessions Trial Case No.-485/2024

LIST OF PROSECUTION WITNESSES:-

Sr. no.	Pws. Number	Description
01	PW-01-Pankaj Chaudhary	Informant to this case
02	PW-02-Sudam	Hostile witness
03	PW-03-Ratan	Hostile witness
04	PW-04-Prakash Kumar	Hostile witness

LIST OF PROSECUTION DOCUMENTARY EVIDENCES

Sr. Number	Exhibit Number	Description
01	Ext.-PW1/P1	Singnature of the informant namely Pankaj Chaudhary over written report
02	Ext.-PW1/P2	Singnature of the Praksh over written report
	Ext.-PW1/P1	Signature of the Ram Kishore over written report

LIST OF DEFENCE EXHIBITS

Sr. Number	Exhibit Number	Description
1	PW1/PA	Signature of P.W.-01 on the compromise petition.

(Asutosh Rai)
Addl. Sessions Judge-II
Katihar
20-05-2026

<i>Date of Judgment</i>	20-05-2026
<i>Date of Uploading</i>	07-04-2026
<i>Uploaded By</i>	Harshit Raj, Stenographer