

In the Court of Satya Bhushan Arya, Sessions Judge, Banka
Session Trial No. 234 of 2010
Registration No. 3390 of 2015
State Versus Marchu Yadav
Date of Judgment : 25.06.2026

FORM A

IN THE COURT OF SESSIONS JUDGE, BANKA <i>Present:- Sri Satya Bhushan Arya, Sessions Judge</i> <i>Date of Judgment:- 25.06.2026</i> Session Trial No. 234 of 2010 <i>(Registration No. 3390 of 2015)</i> <i>[Belhar Police Station Case No. 12 of 1996]</i> <i>Crime:- 302 of IPC and 27 of Arms Act</i>	
<i>Informant</i>	<i>Parmeshwar Yadav son of late Sufal Yadav, resident of village Bela, police station Belhar, district Banka</i>
<i>REPRESENTED BY</i>	<i>Sri Randhir Prasad Singh, A.P.P.</i>
<i>ACCUSED</i>	<i>Marchu Yadav son of late Kailu Yadav, resident of village Bela, police station Belhar, district Banka</i>
<i>REPRESENTED BY</i>	<i>Sri Shiv Shankar Yadav, Adv.</i>

FORM B

<i>Date of Offence</i>	<i>26.01.1996</i>
<i>Date of F.I.R.</i>	<i>27.01.1996</i>
<i>Date of Charge-sheet</i>	<i>23.05.1997</i>
<i>Date of Framing of Charges</i>	<i>07.05.2010</i>
<i>Date of commencement of evidence</i>	<i>28.05.2010</i>
<i>Date on which judgment is reserved</i>	<i>Nil</i>
<i>Date of the Judgment</i>	<i>25.06.2026</i>
<i>Date of the Sentencing Order, if any</i>	<i>Nil</i>

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Accused Details

<i>Rank of the Accused</i>	<i>Name of Accused</i>	<i>Date of Arrest</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 Cr.P.C.</i>
<i>1</i>	<i>Marchu Yadav</i>			<i>302, 120(B)/ of IPC, 27 Arms Act</i>	<i>Acquitted</i>		

FORM C

LIST OF PROSECUTION/DEFENCE/COURT WITNESS

A. Prosecution

<i>RANK</i>	<i>NAME</i>	<i>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</i>
<i>PW 1</i>	<i>Damodar Saw</i>	<i>Hostile witness</i>
<i>PW 2</i>	<i>Parmeshwar Yadav</i>	<i>Informant</i>
<i>PW3</i>	<i>Suresh Yadav</i>	<i>Interested witness</i>

B. Defene Witness, if any:

<i>RANK</i>	<i>NAME</i>	<i>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</i>
<i>DW 1</i>	<i>Nil</i>	

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C. Court Witness, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS
CW 1	Nil	

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution

Sr. No.	Exhibit Number	Description
1	Nil	Nil

B. Defence:

Sr. No.	Exhibit Number	Description
1	Nil	

C. Court Exhibits

Sr. No.	Exhibit Number	Description
1	Nil	

D. Material Objects

Sr. No.	Material Object Number	Description
1	Nil	

J U D G M E N T

1. The accused have been brought before this court for facing trial, upon an FIR lodged under Sections 302 of IPC and 27 of Arms Act, fulcrum whereof is a fard beyan given by one Parmeshwar Yadav with the allegations that on 26.01.1996, his father late Sufal Yadav went to Bagro along with his friend Jina Yadav but he did not return till late night. At about 07:00 pm, he heard sound of four round firing but he believed

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that someone might have exploded firecrackers on the occasion of immersion of the idol of Goddess Saraswati. In the next morning of 27.01.1996, when his grandmother (Chacheri) Chinma Devi was going to her maternal home in village Dhanochi, on her way she saw the dead body of Jina Yadav lying in bushes and the dead body of Sufal Yadav lying in the paddy field near Bela river. Then, she came back and informed to the family members of the deceased. After getting the said information, the informant along with other villagers went there and saw the dead of his father Sufal Yadav. It was alleged by the informant that about 4 years back, uncle of Jina Yadav named Ramlal Yadav murdered by Marchu Yadav and his father was the eye witness of the said incident and doing pairvi of the said case. About 10 days before the date of occurrence, he and his father Sufal Yadav had gone to Banka where Fuchan Yadav, Marchu Yadav, Gultan Yadav, Mugal Yadav, Naresh Yadav, Brahmdeo Yadav had threatened his father to kill. His father told the said threatening to his maternal uncle Shibani Yadav on 25.01.1996. On 26.01.1996, all the FIR named accused persons had come to the house of Marchu Yadav and they were seen moving in the village. The informant suspected that the above persons shot his father and Jina Yadav dead while they were returning from village Bagro.

2. *On the application, Belhar Police Station Case No. 12 of 1996, under Sections 302 of IPC and 27 of Arms Act was lodged and investigation commenced thereon. After completion of investigation, the Investigating Officer filed charge-sheet no. 0046, dated 23.05.1997, against accused persons, namely, 1.*

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Gulten Yadav, 2. Brahmdev Yadav and 3. Marchu Yadav under sections 302, 120(B)/34 of IPC and 27 of Arms Act.

- 3. On 24.05.1997, the learned Magistrate after going through the materials on record as well as the case diary and charge-sheet took cognizance against the charge-sheeted accused under Sections 302, 120(B)/34 of IPC, 27 of Arms Act and, thereafter, the case of the accused Marchu Yadav was split up and committed to the Court of Sessions on 04.02.2010.*
- 4. On 07.05.2010, charges were framed against the accused under Sections 302, 120(B) of IPC, & 27 Arms Act which were read over and explained to the accused in vernacular language, for which he pleaded not guilty and claimed to be tried.*
- 5. In order to prove its case prosecution examined as much as three witnesses : -*

***PW1**, Damodar Saw, appeared in the witness box and in his examination-in-chief outrightly denied having known anything about the incident. He stated that the police had not inquired from him. On the request of prosecution, this witness was declared hostile, however the prosecution could not excavate anything fruitful to its case by cross-examining its own witness.*

***PW2**, Parmeshwar Yadav, appeared in the witness box and in his examination-in-chief stated that it is an incident of the year 1996. He was at Bagro village. Maithu Yadav, Prem Yadav, Mogal Yadav, Lalji Yadav, Bahadur Yadav, Naresh Yadav, Fudan Yadav, were having three-nut and other accused were empty-handed. He stated that Maithu shot his father near his ear. His father died on the spot. This incident happened at*

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Baglo's outskirts. It was 26 January, at the day of immersion of idol of Goddess Saraswati. He stated that only he saw the incident. His mother Savitri Devi, Hemanti Devi, Chhagan Yadav, Tilak Yadav, Dewal Yadav came. He stated that he went to police station and stated about the incident. The application was written by sub-inspector and read over to him and he finding it correct signed it. He identified his signature, which is marked as Exhibit-1. He further identified the signature of Shivan Yadav, which is marked as Exhibit-1/1. He further claimed to identify the accused. In cross-examination, the witness stated that he went to Belhar police station and filed this case. The statement was recorded by the police. He put his signature on the application. Chhagan Yadav, Hemanti Devi, Shivan Yadav, Karu Yadav also put his signature on the application. He stated that it is an incident of 26.01.1996, at about 07:00 pm. He was with his father in Baglo village. He stated that on 26.01.1996, Jina and Sufal departed for Bagro village. He heard the sound of fired but he believed that someone exploded firecrackers on the occasion of Saraswati Puja. The whole family waited till 11:00 pm. When he did not return, then all family slept to eat. At about 07:00 am, his grandmother Chinwa Devi went to her maternal house. On the way, she saw the dead body of Sufal Yadav and Jina Yadav near Bela river. After that he filed this case. The uncle of Jina Yadav was murdered and in that case Jina and Sufal Yadav had given testimony, so he suspected and filed this case. He stated that he saw the offence of committing murder of Jina and Sufal by his own eyes. Fifty to hundred people went to see dead bodies. Jina Yadav and Sufal Yadav only had enmity with

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Marchu Yadav. He stated that Marchu was acquitted in the case of murder of Ramlal. After that Marchu committed the crime. He denied the suggestions that he did not see the crime with his own eyes and he falsely implicated the accused.

PW3, *Suresh Yadav*, appeared in the witness box and in his examination-in-chief he stated that it is an incident of 13 to 14 years ago at about 06:00 am. *Sufal* and *Jina* are his brothers. He stated that *Jina Yadav* and *Sufal Yadav* went to treat cattle in *Bagro* village. When they did not return, they went to search towards *Bagro*. When *Parmeshwar Yadav* reached across the river, he heard the sound of firing. *Jina* was yelling. *Fuchan*, *Gultan*, *Mangal*, *Bahadur*, surrounded him. *Marchu Yadav* fired on the ear of *Jina Yadav* and he died on the spot. He stated that he also saw that *Sufal* was dead. He had also been shot, but he did not see him getting shot. He informed the police. Then, on the next day the police arrived. He stated that his uncle *Ramlal Yadav* had been murdered by the accused before three-four years from the incident and in that case *Sufal* and *Jina* were witnesses. So they were murdered by *Marchu Yadav*. He identified *Marchu Yadav* and he claimed to identify other accused. *Sufal* and *Jina* both were shot on ear. In cross-examination, he stated that *Bagro* village 1 km from *Bela* village. In between, there is a river and there are no houses. When *Jina* and *Sufal* went outside the village, he was at home. He further stated that the police had inquired from him. On the day the police recovered dead bodies, the police on the same day recorded his statement. He further denied suggestions that he stated before the police that when his grandmother was going to *Dhanaudi*, then she saw the dead bodies of *Jina Yadav* and

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Sufal Yadav in the paddy field in between Bagro village and Bela river and upon that information they went to see dead bodies. He did not state that Jina and Sufal went to consume liquor. He further stated that he did not went to police station with Parmeshwar. He did not see the occurrence from his own eyes. He further stated that the case of murder of Ramlal, Jina and Sufal had to depose. He denied the suggestions that in that case Jina and Sufal had already deposed. He further stated that he does not know that whether Marchu acquitted or not in the case of murder of Ramlal. This case has been lodged by Parmeshwar. Marchu, Gultan, Mandal, Damodar are accused and Prem and Laljit are accused on the basis of suspicion. He further submitted that there were five to seven persons near the dead body of Sufal. He and Parmeshwar were having blackjack in their hands. It was dark night. It was the day of immersion of the idol of goddess Saraswati. He denied the suggestion that he heard the sound of gunshot at home. He further submitted that he shouted upon seeing to shoot Jina. Upon his shouting, no one came there in the night. He further stated that at 6 O'clock in the morning, the people started gathering. The occurrence of shooting occurred at 6:30 O'clock in the evening. He, Parmeshwar, Triloki, Chhakkan Yadav, his mother, Daya Devi were lived there till whole night. He denied the suggestions that Marchu has falsely been implicated. He denied the suggestions that he did not see shooting. He denied the suggestion that on the basis of suspicion Marchu has been named.

6. *Thereafter, despite availing a number of effective adjournments the prosecution could not adduce any evidence and could not produce any witness. All the process i.e. summons, bailable*

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warrants, non-bailable warrants was exhausted but the prosecution could not adduce any evidence. Ultimately, seeing no way, vide order dated 13.10.2025, the prosecution evidence was closed.

- 7. The statement under Section 313 of the CrPC was also recorded on 21.11.2025, wherein the accused admitted having heard the evidence against him, and pleaded himself as innocent.*
- 8. Learned Additional Public Prosecutor in his oral argument submitted that the case is well proved and the informant as PW2 as well as Suresh Yadav as PW3 appeared in the witness box and they have specifically levelled allegations against the accused. They have identified and proved the guilt of accused.*
- 9. In counter, learned counsel for the defense stoutly opposed the arguments of the prosecution on the ground that the prosecution failed to prove its case. In support of its case, the prosecution has examined as much as three witnesses. The prosecution witness no. 1 has been declared hostile, whereas prosecution witness nos. 2 and 3 have contradiction in their evidences. In this situation, it is prayed that the accused may be acquitted.*
- 10. Heard rival submissions and perused the record.*
- 11. Conclusion :-*

It is a case, that the dead bodies of father of informant i.e. Sufal Yadav and Jina Yadav were found. Dead body of Jina Yadav was lying in bushes in the paddy field near Bela river. It has been alleged by the informant that about 4 years back, uncle of Jina Yadav named Ramlal Yadav was murdered by Marchu

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Yadav and his father was the eye witness of the said incident. About 10 days before the date of occurrence, he and his father Sufal Yadav had gone to Banka where Fuchan Yadav, Marchu Yadav, Gultan Yadav, Mugal Yadav, Naresh Yadav, Brahmdeo Yadav had threatened his father to kill. His father told the said threatening to his maternal uncle Shibhan Yadav on 25.01.1996. On 26.01.1996, all the FIR named accused persons had come to the house of Marchu Yadav and they were seen moving in the village. The informant suspected that the above persons shot his father and Jina Yadav dead while they were returning from village Bagro.

- In this situation, it was onus upon the prosecution first to prove earlier FIR and that the deceased was eye witness therein.*
- The prosecution then was required to prove reporting of threatening to the deceased by the miscreants.*

Now coming to the evidence. The prosecution examined only three witnesses. Out of which PW 1 Damodar Saw, turned hostile.

PW 2 is the informant Parmeshwar Dass himself, who is son of deceased Sufal Yadav. In the FIR this witness has given statement to the police that about 10 days before the date of occurrence, he and his father Sufal Yadav had gone to Banka where Fuchan Yadav, Marchu Yadav, Gultan Yadav, Mugal Yadav, Naresh Yadav, Brahmdeo Yadav had threatened his father to kill. His father told the said threatening to his maternal uncle Shibhan Yadav on 25.01.1996. On 26.01.1996,

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all the FIR named accused persons had come to the house of Marchu Yadav and they were seen moving in the village. The informant suspected that the above persons shot his father and Jina Yadav dead while they were returning from village Bagro.

Now, this witness in his deposition changed his statement by saying that he saw both the persons were slayed by the accused persons in his presence.

In the FIR it has been alleged that “in the morning of 27.01.1996, when his grandmother (Chacheri) Chinma Devi was going to her maternal home in village Dhanochi, on her way she saw the dead body of Jina Yadav lying in bushes and the dead body of Sufal Yadav lying in the paddy field near Bela river. Then, she came back and informed to the family members of the deceased”. But, to the surprise of this court, this witness has not been brought by the prosecution, whereas this was a material witness to this case.

Further no independent witness has been examined, I.O. of the case also did not step in the witness box. Even the witnesses who have been examined their testimony also do not corroborate with each other.

It has been alleged by the informant that “about 4 years back, uncle of Jina Yadav named Ramlal Yadav murdered by Marchu Yadav and his father was the eye witness of the said incident and doing pairvi of the said case. About 10 days before the date of occurrence, he and his father Sufal Yadav had gone to Banka where Fuchan Yadav, Marchu Yadav, Gultan Yadav, Mugal Yadav, Naresh Yadav, Brahmdeo Yadav had threatened

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his father to kill". But, neither the said FIR, nor list of witnesses of that case has been produced by the prosecution to prove motive of the accused persons.

In this situation, in the opinion of this court the prosecution has utterly failed to prove the guilt of the accused, resultantly the accused is acquitted of the charges levelled against him. Since, the accused is enjoying the privilege of bail, he and his sureties are discharged from the liability of the bail bonds.

Record be consigned to the record room after due compliance.

Dictated, Corrected and Pronounced by :-

Satya Bhushan Arya
Sessions Judge, Banka
Dated- 25.06.2026

This judgment contains twelve pages, all are signed by me.

Satya Bhushan Arya
Sessions Judge, Banka
Dated- 25.06.2026

<i>Date of Judgment/ Order</i>	
<i>Date of Reserving Judgment/ Order</i>	
<i>Uploading Date</i>	
<i>Uploaded by</i>	