

In the Court of Sri Kumar Amit Manu
Additional Sessions Judge-I,
District- Banka(Bihar)
S.T Case No.-100/2024
State of Bihar vs Dinesh Yadav

FORM A

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-I, BANKA Present:- Sri Kumar Amit Manu, Additional Sessions Judge-I, cum- Spl. Judge S.C/S.T (P.O.A)Act, Banka [Date of Judgment:- 10-06-2026] [S.T Case No. -100/2024] <u>F.I.R. No.:-502/2023</u> Crime:- Under Sections 302, 201, 120(B) of IPC Police Station:- Rajoun, Banka	
INFORMANT	Runki Devi, w/o- Pappu Yadav, vill- Chakraushan, P.S- Rajoun, Dist.- Banka
REPRESENTED BY	Sri Raj Kishore Singh (Ld. A. P.P.)
ACCUSED	1. Dinesh Yadav, S/o- Late Nankeshwar Yadav @ Nand Kishore Yadav, vill- Chakroshan, P.S- Rajoun, Dist.- Banka, aged about 45 years. (Hereinafter he will be referred as A-1)
REPRESENTED BY	Sri Ram Kishore Yadav, (Ld. Adv.)

FORM B

Date of Offence	29.09.2023
Date of F.I.R.	30.09.2023
Date of Chargesheet	03.01.2024
Date of Framing of Charges	22.03.2024
Date of commencement of evidence	11.02.2025
Date on which judgment is reserve	01.06.2026
Date of the Judgment	10.06.2026
Date of the Sentencing Order, if any	17.06.2026

FORM C

LIST OF PROSECUTION/DEFENCE/COURT WITNESS

A. Prosecution

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW 1	Dr. Dilip Kumar	Medical Officer

PW 2	Dr. Ijaj Masih	Medical Officer
PW 3	Runki Devi	Informant
PW 4	Bishaka Kumari	Other witness
PW 5	Pappu Yadav	Panch witness
PW 6	Gautam Kumar	Investigating Officer

B. Defene Witness, if any:

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

C. Court Witness, if any:

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

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution

Sr. No.	Exhibit Number	Description
1	Ext.-P-1/PW-1	Signature of Dr. Dilip Kumar on postmortem re- port
2	Ext.-P-2/PW-2	Signature of Dr. Ijaj Masih on postmortem re- port
3	Ext.-P-3/PW-3	Signature of PW-3 Runki Devi on inquest report
4	Ext.-P-4/PW-5	Signature of PW-5 Pappu Yadav on inquest re- port
5	Ext.-P-5/PW-6	Endorsement on the FIR
6	Ext.-P-6/PW-6	Formal FIR
7	Ext.-P-7/PW-6	Inquest report

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 above-named accused, namely Accused No. 1 (A-1), stands charged for the offences punishable under Sections 302, 201 and 120-B of the Indian Penal Code.

2. The present case originates from an FIR instituted on the basis of the fardbeyan of the informant, Runki Devi. In her statement, she alleged that on 29.09.2023, her son, Saurav Yadav, left his house upon being called by Mahesh Yadav, Dinesh Yadav, Bablu Kumar, Dablu Kumar and Chhabli Yadav for the purpose of resolving a dispute relating to a mobile phone through a panchayati. However, he did not return home till late in the night. At about 9:00 P.M., the informant went to the house of Mahesh Yadav to enquire about her son, where she was informed that Saurav had left the place approximately half an hour earlier. Thereafter, the informant and her family members commenced a search for him. During the course of the search, the dead body of Saurav Yadav was found lying beside the railway track. The informant alleged that her son had been murdered pursuant to a criminal conspiracy hatched by the accused persons. On the basis of the said allegations, the present case was instituted against the accused persons.

3. On the basis of written statement, Police investigated the case. After investigation, Investigating Officer submitted the charge-sheet under section 302, 201, 120(B) of IPC on 03.01.2024 against accused person and subsequently cognizance of the offence was

taken and the accused person was summoned to face the trial.

4. On 22.03.2024 ,Charge against accused person under section 302, 201, 120(B) of IPC were framed and were read over to the accused person to which he pleaded not guilty and claimed to be tried.

5. On 21.01.2026, statement of accused person has been recorded under section 313 of Cr.P.C in which he denied the case of the prosecution and claimed to be innocent.

6. Defence case in brief is denial of the entire occurrence and innocence of the accused person.

7. Now, the point for determination arises as to whether prosecution has been able to bring home the guilt of the accused person beyond the shadow of reasonable doubts?

FINDINGS

8. In order to prove its case, the prosecution has examined six witnesses in this case namely:-

- PW-1 Dr. Dilip Kumar,
- PW-2 Dr. Ijaj Masih,
- PW-3 Runki Devi,
- PW-4 Bishaka Kumari,
- PW-5 Pappu Yadav,
- PW-6 Gautam Kumar.

The prosecution has also produced some documentary evidence in its favour, which is as follows:-

Ext.-P-1/PW-1	Signature of Dr. Dilip Kumar on postmortem report
Ext.-P-2/PW-2	Signature of Dr. Ijaj Masih on postmortem report
Ext.-P-3/PW-3	Signature of PW-3 Runki Devi on inquest report
Ext.-P-4/PW-5	Signature of PW-5 Pappu Yadav on inquest report

Ext.-P-5/PW-6	Endorsement on the FIR
Ext.-P-6/PW-6	Formal FIR
Ext.-P-7/PW-6	Inquest report

9. The defence has neither adduced any oral evidence nor documentary evidence in this case.

10. Now, coming to the evidence of the prosecution witness:-

PW1- Dr. Dilip Kumar, who was posted as a Medical Officer at Sadar Hospital, Banka, deposed in his examination-in-chief that on 30.09.2023, he was serving as a Medical Officer at the said hospital. On that date, a medical board comprising Dr. Ijaz, Dr. Mahendra and himself examined the dead body of Sourav Yadav. He stated that the post-mortem examination was conducted by the team under the leadership of Dr. Mahendra, during which the following ante-mortem injuries were found on the person of the deceased:-

External Injuries:

1. Lacerated wound measuring **1½" × ½"** above the right eyebrow.
2. Lacerated wound over the left frontal region measuring **1" × ½" × 1"**.
3. Fracture of the left mandible.
4. Enucleation of the left eye.
5. Fracture of the parieto-occipital bone with extrusion of brain matter through the fractured area.
6. Closed compound fracture of the left arm.
7. Bleeding from the right eye.
8. Abrasion around the neck measuring **2" × 1"**.
9. Abrasion over the right shoulder measuring **½" × ½"**.
10. Open compound fracture of the right leg, with the tibia protruding through the fractured site.
11. Protrusion of the large intestine from the left flank region.
12. Bruising over the abdomen.

13. Abrasion above the sacral region measuring **3" × 1"**.
14. Old minor wounds over the left shin, tibia and foot, appearing to be about **7-10 days old**, along with lacerations on all five toes of the left foot and ankle.

Internal Findings:

- Lungs were congested.
- The right chambers of the heart were filled with blood, whereas the left chambers were empty.
- The stomach contained digested food.

The witness further deposed that, in the opinion of the medical board, the cause of death was **neurogenic and haemorrhagic shock resulting from the aforesaid injuries sustained in a road traffic accident (RTA)**. The estimated time elapsed since death was assessed to be **12 to 18 hours** prior to the post-mortem examination.

He further identified his handwriting and signature on the post-mortem report, which was marked as **Exhibit-P/1**. He also opined that the injuries noted in the post-mortem report were sufficient, in the ordinary course of nature, to cause the death of the deceased.

PW-2, Dr. Ijaj Masih, was examined as a Medical Officer. In his examination-in-chief, he deposed that on 30.09.2023, he was posted as a Medical Officer at Sadar Hospital, Banka. On that date, a medical board consisting of Dr. Mahendra, Dr. Dilip Kumar and himself conducted the examination of the dead body of Sourav Yadav. The post-mortem examination was carried out under the supervision of the medical board, during which the following ante-mortem injuries were noted on the person of the deceased:

External Injuries:

1. Lacerated wound measuring $1\frac{1}{2}" \times \frac{1}{2}"$ above the right eyebrow.
2. Lacerated wound over the left frontal region measuring $1" \times \frac{1}{2}" \times 1"$.
3. Fracture of the left mandible.
4. Enucleation/injury to the left eye.
5. Fracture of the parieto-occipital bone with extrusion of

brain matter through the fractured area.

6. Closed compound fracture of the left arm.
7. Bleeding from the right eye.
8. Abrasion around the neck measuring 2" × 1".
9. Abrasion over the right shoulder measuring ½" × ½".
10. Open compound fracture of the right leg with protrusion of the tibia through the fractured site.
11. Protrusion of the large intestine through the left flank region.
12. Bruising over the abdomen.
13. Abrasion above the sacral region measuring 3" × 1".
14. Old minor wounds over the left shin, tibia and foot, appearing to be about 7–10 days old, along with lacerations on all five toes of the left foot and ankle.

Internal Findings:

- Lungs were found congested.
- The chambers of the heart showed the presence of blood as noted in the post-mortem report.
- The stomach contained digested food.

According to the medical opinion, the cause of death was neurogenic and haemorrhagic shock resulting from the aforesaid injuries, which were opined to have been sustained in a road traffic accident (RTA). The time elapsed since death was assessed to be 12 to 18 hours prior to the post-mortem examination.

The witness further deposed that the post-mortem report had been prepared by Dr. Dilip Kumar and that the same also bore his signature. He identified his signature appearing thereon, whereafter the post-mortem report was marked and exhibited as Ext.-P/1.

PW-3 Runki Devi, the informant of the case, deposed in her examination-in-chief that the occurrence had taken place about two years prior to her deposition. She stated that at about 8:00 P.M., Mahesh Yadav, Dinesh Yadav, Bablu Yadav, Chhabbu Yadav and Dablu Yadav came and took her son, Saurav Kumar, with them. When her son did not return till about 9:00 P.M., she went to

enquire from Mahesh Yadav, who informed her that Saurav had left approximately half an hour earlier. Despite waiting for him throughout the night, he did not return. On the following morning, upon hearing people raising an alarm that a dead body had been found, she went to the spot and identified the body as that of her son, Saurav Kumar. She stated that she noticed a dagger embedded in his abdomen, his legs were twisted and fractured, and his face had been smashed. Thereafter, the police arrived at the spot and sent the dead body for post-mortem examination. She stated that she did not accompany the police. According to her, a written report was submitted to the police and the Sub-Inspector reduced her statement into writing as narrated by her. After it was read over and found to be correct, she affixed her thumb impression thereon. She further stated that an inquest report was prepared over the dead body, bearing her signature, which she identified and which was marked as Exhibit-3. She further deposed that Mahesh Yadav had earlier threatened her son, stating that if the mobile phone allegedly taken by him was not returned, he would kill him. According to her, her son was murdered on account of the dispute relating to the alleged theft of a mobile phone. She further stated that the railway line was situated about ten steps from her house and that the dead body was found a short distance away from the railway track. She also identified all the accused persons present in Court.

In her cross-examination, PW-3 stated that when the police officer arrived, her thumb impression was obtained at that time. She further stated that she was not in a proper state of mind and that the contents were read over to her before she put her thumb impression on the inquest report. She deposed that there were about 50-60 houses in the vicinity of her residence and that all the residents lived there with their families. According to her, the occurrence took place during the summer season. She further stated that Dinesh and Mahesh were not her *gotias* and admitted that there had been enmity between them for about ten days preceding the occurrence, as a result of which there was no exchange of visits or conversation between the families. She stated

that her son had left the house alone and that the night was dark. When he failed to return, she and her family members searched for him and made enquiries from nearby persons, but nobody disclosed anything. She further stated that when they went to the house of Mahesh Yadav to enquire about her son, both Mahesh and Dinesh were present there. She also stated that the railway track was situated adjacent to the village and trains regularly passed through it. According to her, it was only on the following morning, after hearing people shouting about the discovery of a dead body, that they went to the spot and found the body of her son. She noticed three injuries on the body and blood scattered around the place. She further stated that a large number of villagers had gathered at the spot, but none of them disclosed any information regarding the occurrence. Finally, she stated that the police prepared the necessary papers at the place of occurrence and obtained her thumb impression while she was in a distressed and semi-conscious condition, and that after the incident the police never returned to question her further.

PW-4 Bishaka Kumari deposed in her examination-in-chief that the occurrence had taken place about two years prior to her deposition. According to her, at about 8:00 P.M. on the relevant day, she was present at her parental home in village Chakroshan. She stated that a mobile phone belonging to Umesh Yadav had allegedly been stolen and that Umesh Yadav had directly accused her brother, Saurav Yadav, of having taken the mobile phone. When Saurav denied the allegation, Umesh Yadav allegedly told him that he would deal with him after ten days. She further stated that on the sixth day thereafter, at about 8:00 P.M., Mahesh Yadav, Dinesh Yadav, Umesh Yadav, Bablu Yadav, Chhabu Yadav and Dablu Yadav came and called Saurav away with them. When Saurav did not return, she, along with her mother and father, went to the house of Umesh Yadav in search of him. There, they were informed that Saurav had left the place about half an hour earlier. On the following morning, upon hearing commotion regarding the discovery of a dead body, they proceeded towards the railway line

where they found the dead body of Saurav. She stated that a knife was embedded in his abdomen, one of his legs was twisted and fractured, and his face had been crushed. Thereafter, the police arrived at the spot, took custody of the dead body and sent it to Banka for post-mortem examination. She also identified all the accused persons present in Court.

In her cross-examination, PW-4 stated that her matrimonial home is situated at Laxshmipur, Gangapar, and that after her marriage she ordinarily resides there. She further stated that on the date of occurrence she had come to her parental home. According to her, several houses are situated around her parental residence. She stated that neither she nor her parents had any enmity with any person. She further deposed that since it was night time, all the family members had gone to sleep. Upon waking up and finding that Saurav had not returned home, they raised an alarm. Villagers assembled and jointly searched for him, but when the search yielded no result, they returned home and went to sleep. On the following morning, upon hearing that a dead body was lying near the railway track, they went to the spot and found a large crowd gathered there. She identified the dead body as that of her brother, Saurav. She stated that no conversation took place with anyone at the place of occurrence and that thereafter the police arrived and took away the dead body.

She further admitted that Saurav was a married man and stated that after his death, his wife was also murdered, in connection with which she, her mother and her father have been arrayed as accused persons. She also stated that she was deposing in Court for the first time in connection with the present case. Finally, she clarified that Pappu is her father and Runki Devi is her mother.

PW-5 Pappu Yadav, the father of the deceased, deposed in his examination-in-chief that the occurrence had taken place about two years prior to his deposition. According to him, at about 8:00 P.M. on the date of occurrence, he was present at his house when Mahesh Yadav, Dinesh Yadav, Bablu Yadav, Chhabali Yadav and Dablu Yadav came and called his son, Saurav Kumar, away with

them. When Saurav did not return even after about an hour, he went to the house of Mahesh Yadav to enquire about his whereabouts. Mahesh informed him that Saurav had left approximately half an hour earlier. Thereafter, he and his family members searched for Saurav throughout the night, but were unable to trace him. On the following morning, information was received that Saurav Kumar had been found lying near the railway track. Upon hearing this, he, along with his family members, went to the spot and found that Saurav had died. He stated that he observed the dead body and noticed injuries on the head and a knife embedded in the stomach. Shortly thereafter, the police arrived at the place of occurrence and, after conducting the necessary formalities, prepared the inquest report. He identified his signature on the inquest report, which was marked as **Exhibit-4**. He further stated that his wife had also signed the document. According to him, the dead body was subsequently sent for post-mortem examination. He further deposed that the accused persons had earlier levelled allegations against his son regarding a mobile phone and that the occurrence had taken place in connection with the said dispute. He also identified all the accused persons present in Court.

In his cross-examination, PW-5 stated that Pooja Devi, his daughter-in-law, had died and that a criminal case had been instituted against him and his family members in connection with her death, pursuant to which they had been sent to jail. He further stated that he neither visited the houses of the accused persons nor maintained any social relations with them, as there was pre-existing enmity between the parties. He reiterated that the occurrence took place at about 7:00–8:00 P.M. on a dark summer night. According to him, there were several houses adjoining his residence and the villagers were awake at the relevant time. He stated that he came to know that Saurav had been called away by the accused persons and, when he failed to return after half an hour to one hour, they started searching for him. He admitted that during the search neither the villagers visited the houses of the accused persons nor were they requested to do so. He further

stated that when he went to the house of Mahesh Yadav, Mahesh was present there. Thereafter, they searched from house to house in the village and made enquiries from various persons, but nobody disclosed any information. As they did not possess a mobile phone, they did not contact or search at the houses of relatives. He stated that they continued the search throughout the night.

According to him, on the following morning there was noise in the village regarding the discovery of a dead body, whereupon he went to the spot and found a large crowd assembled there. He stated that he could not name any of the persons present and did not have any conversation with anyone at the spot. He saw his son lying dead with injuries all over the body. The police subsequently arrived and took the dead body away. He accompanied the police to Banka, where certain formalities were completed. However, he stated that he could not say what had been written in the document on which he had put his signature and did not remember how many papers he had signed. He admitted that he had signed only one document. He further stated that the police never questioned him regarding the occurrence and that he was deposing before the Court for the first time. He categorically admitted that he had not witnessed anyone assaulting his son. Finally, he denied the defence suggestion that, owing to previous enmity, the accused persons had been falsely implicated in a fabricated case.

PW-6 Gautam Kumar, the Investigating Officer of the case, deposed in his examination-in-chief that on 30.09.2023, he was posted as a Sub-Inspector at Rajoun Police Station. He stated that the investigation of Rajoun P.S. Case No. 502 of 2023 was entrusted to him by the then Station House Officer, Manoj Kumar Singh. He identified the handwriting and signature of the then SHO on the endorsement and the formal First Information Report, which were marked as Exhibit-5 and Exhibit-6, respectively. He also identified the handwriting and signature of Sub-Inspector Ramakant Singh on the inquest report, which was marked as Exhibit-7. The witness further deposed that after taking over the investigation, he recorded the statement of the informant, Runki

Devi, and inspected the place of occurrence. According to him, the place of occurrence was situated approximately 10 kilometres north-east of Rajoun Police Station in village Chakraushan, adjacent to the western side of the railway track. He stated that it was at this place that the dead body of Saurav Yadav, son of the informant, was found. He further observed that there was an injury caused by a sharp-edged weapon on the abdomen of the deceased and an injury on the face allegedly caused by a stone. He described the boundaries of the place of occurrence as follows: to the east stood a railway pole, to the west lay the paddy field of Pappu Yadav, and to the north and south ran the railway track.

PW-6 further stated that at the place of occurrence he recorded the statements of Pappu Yadav, Vishakha Devi and Pooja Devi. He verified the names and addresses of the accused persons and conducted raids for their apprehension, though no recovery could be effected. He received the supervision report and entered the same in the case diary. On 10.11.2023, he arrested accused Dinesh Yadav and produced him before the Court for remand. During investigation, he found that two criminal cases were registered against accused Mahesh Yadav, while one criminal case each was registered against accused Dinesh Yadav, Bablu Yadav, Dalu Yadav and Chhabu Yadav. He further stated that after receiving the post-mortem report, he incorporated the same into the case diary. Subsequently, upon receipt of the second supervision report, the same was also recorded in the case diary. Owing to the expiry of the statutory period of ninety days of judicial custody, he submitted charge-sheet against accused Dinesh Yadav, while keeping the investigation open against the remaining accused persons for submission of a supplementary charge-sheet. Thereafter, upon his transfer, he handed over the charge of investigation to his successor.

In his cross-examination, PW-6 admitted that the inquest report had neither been prepared in his presence nor signed before him by any officer. He stated that the inquest report had been handed over to him at the police station after the dead body had already been sent for post-mortem examination. Consequently, he admitted that

he had no opportunity to see the dead body personally. He further stated that he inspected the place of occurrence on 30.09.2023 and that the identification of the place of occurrence was made by the informant and her family members. He admitted that the alleged place of occurrence was situated near a railway track where trains frequently passed. The witness further admitted that no material exhibit was seized from the place of occurrence and that no bloodstains or similar incriminating material were found at the spot. He stated that the statement of the informant was recorded at the police station, whereas the statements of the other witnesses were recorded at the place of occurrence on the date of inspection. He further admitted that all the witnesses examined during investigation were close relatives of the deceased, namely his sister, wife and father. Although efforts were made to record the statements of independent witnesses, no person was willing to come forward. Significantly, he admitted that no witness had stated before him that he or she had actually witnessed the deceased being assaulted. He further stated that since he was transferred during the course of investigation, he handed over the investigation and ceased to be associated with the case thereafter.

ARGUMENTS

11. During the course of arguments, the learned defence counsel submitted that although the prosecution has examined six witnesses, none of them has supported the actual occurrence and no witness has claimed to have seen the incident. It was further contended that the case is entirely devoid of any eyewitness account and that the deceased died as a result of a railway accident. According to the defence, owing to previous animosity, the accused persons have been falsely implicated in the present case. It was also argued that the medical evidence supports the defence version of accidental death and, therefore, the prosecution case is surrounded by serious and reasonable doubts, entitling the accused to the benefit thereof.

12. Per contra, the learned Additional Public Prosecutor submitted that the prosecution has successfully established its case through the testimony of six witnesses. It was argued that the prosecution has proved the existence of prior enmity as well as the circumstance of the deceased having been last seen in the company of the accused persons. According to the prosecution, the deceased was called away by the accused persons on the pretext of resolving a dispute through a *panchayati*, and thereafter his dead body was recovered near the railway track. It was further contended that the chain of circumstantial evidence stands fully established. The learned prosecutor argued that the medical opinion suggesting a road traffic accident is merely advisory in nature and not conclusive, particularly when certain injuries and surrounding circumstances indicate that the death was homicidal. Accordingly, it was submitted that the prosecution has succeeded in proving the guilt of the accused beyond all reasonable doubt.

DISCUSSIONS

13. This Court has carefully considered the evidence adduced by the prosecution, the statement of the accused recorded under Section 313 Cr.P.C., and the rival submissions advanced on behalf of the parties. The prosecution case rests on circumstantial evidence. It is well settled that in a case based on circumstantial evidence, each circumstance relied upon by the prosecution must be fully established and all the circumstances, when taken together, must form a complete chain pointing unerringly towards the guilt of the accused and excluding every reasonable hypothesis of innocence. However, it is equally settled that conviction can safely be founded on circumstantial evidence where the chain is complete and the circumstances are incapable of explanation on any hypothesis other than the guilt of the accused.

In the present case, the prosecution relies upon the following circumstances:

(i) Previous enmity and motive arising out of the dispute

concerning theft of a mobile phone,

(ii) The deceased having been last seen alive in the company of the accused persons shortly before his death,

(iii) Death occurred shortly after accused persons taken the victim from his house on pretext of panchayati,

(iv) Medical and surrounding circumstances indicating homicidal death,

(v) Conduct of the accused persons and absence of any explanation regarding the fate of the deceased after they admittedly called him from his house.

14. As regards motive, PW-3 Runki Devi, PW-4 Bishaka Kumari and PW-5 Pappu Yadav have consistently deposed that prior to the occurrence, accused Umesh Yadav had accused the deceased Saurav Kumar of stealing his mobile phone. They have further stated that threats were extended to the deceased in connection with the said dispute. PW-4 has specifically deposed that when the deceased denied the allegation, Umesh Yadav told him that he would "see him after ten days". The occurrence admittedly took place within a few days thereafter. The defence could not elicit anything in cross-examination to demolish this aspect of the prosecution case. The existence of prior hostility and motive, therefore, stands duly established. Such conduct is relevant under Section 8 of the Indian Evidence Act and furnishes a significant link in the chain of circumstances. As regards Last seen, PW-3, PW-4 and PW-5 have consistently deposed that on the night of the occurrence, at about 8:00 P.M., the accused persons came to the house of the deceased and called him away with them. Their testimony remains consistent on this material aspect. Nothing substantial has emerged in their cross-examination to discredit their evidence regarding the fact that the accused persons had taken the deceased from his house shortly before his death. Significantly, when PW-5 went to the house of accused Mahesh Yadav to enquire about the whereabouts of his son, Mahesh informed him that Saurav had left only about half an hour earlier. Thus, the evidence unmistakably establishes that

immediately prior to his disappearance, the deceased was in the company of the accused persons. The dead body of the deceased was recovered on the following morning. Therefore, the time gap between the deceased being taken away by the accused persons and the discovery of his dead body is extremely narrow. In **Bodhraj v. State of Jammu and Kashmir 2002 (7) SCC 334**, the Hon'ble Supreme Court held that where the deceased was last seen in the company of the accused and the interval between such last-seen circumstance and the death is so small that the possibility of intervention by any other person is excluded, the burden shifts upon the accused to explain the circumstances under which the deceased parted company with them.

Medical Evidence

The principal defence argument is that the deceased died in a railway accident and not due to homicidal violence. PW-2 Dr. Ijaz Masih proved the post-mortem report. It is true that the doctor opined that death occurred due to neurogenic and haemorrhagic shock resulting from injuries sustained in a road traffic accident. However, it is a settled principle that medical opinion is advisory in nature and cannot override proven facts and surrounding circumstances. The opinion of an expert is not substantive evidence and is required to be weighed with other evidence available on record. Upon careful scrutiny of the post-mortem report, this Court finds that the injuries noted therein do not conclusively establish either a road traffic accident or a railway accident.

The post-mortem report records:

- Abrasion around the neck measuring 2" × 1";
- Protrusion of the large intestine through the flank region;
- Multiple blunt-force injuries;
- Fractures at various places.

At the same time, the report does not disclose features ordinarily associated with a railway run-over case such as:

- amputation of limbs;
- decapitation injury;

- body transection;
- extensive mutilation;
- crushing of the torso by railway wheels;
- grease/soil marks or railway-wheel impressions.

If the deceased had been run over by a train, the Court would ordinarily expect far more extensive crushing and mutilation of the body. The injuries noticed in the present case do not fit squarely into a typical railway run-over death. Further, the inquest report and the evidence of prosecution witnesses indicate that the body was found lying near the railway track after the occurrence. The inquest report suggest that dead body was first murdered and thrown on railway track. The witnesses of prosecution has referred to injury to intestine, which has come out. The prosecution case throughout has been that after committing the murder, the accused persons attempted to create an impression of accidental death by leaving the body near the railway line. The medical evidence does not rule out such a possibility. It is pertinent to note that the doctor's opinion regarding road traffic accident is not supported by any independent investigation revealing involvement of any vehicle, accident site, skid marks, eyewitness of accident, or any other circumstance suggesting accidental death. The medical opinion regarding road traffic accident remains merely an opinion and cannot outweigh the cumulative effect of the surrounding circumstances established by the prosecution. One more important observation during postmortem is presence of food in stomach of deceased. The post-mortem report reveals the presence of digested food in the stomach. Food takes 6-8 hours to digest. It has not been emptied yet. Digestion process stops after death. Though lot of factors are involved indetermining time of death but it is an important piece of circumstance against the accused which points to death of the deceased once he was called by the accused persons to their house. The deceased had been called from his house at about 8:00 P.M. and the post-mortem was conducted at 10 AM in the morning, and it is estimated in postmortem report that the time since death to be approximately 12 to 18 hours. ***This circumstance lends support to the prosecution version that***

the deceased met his death shortly after being taken away by the accused persons and not at some remote point of time thereafter. Though by itself this circumstance may not be conclusive, it provides corroboration to the prosecution case regarding the approximate timeline of the occurrence. **In R. Sreenivasa v. State of Karnataka, 2023INSC803** it has been held by Honble supreme court that prosecution has to first clearly establish last seen theory and burden on accused shifts only when the last seen theory is established. In the present case, as per the foregoing discussion it is established beyond doubt that the deceased was being called and taken away by the accused persons and he was last seen alive in their company. Thus, burden shifts to accused to explain the circumstance of last seen.No explanation whatsoever has been offered by the accused persons regarding the circumstances in which the deceased, after being called by them, was subsequently found dead. Such failure to explain the incriminating circumstance constitutes an additional link in the chain of circumstances.

The defence has raised an argument that all witnesses are relatives of deceased and there is no independent witness in this case however this court finds that they are natural witness in this case.Merely because PW-3, PW-4 and PW-5 are related to the deceased does not render their testimony unreliable.It is settled law that evidence of related witnesses cannot be discarded solely on the ground of relationship if otherwise found trustworthy and credible.Their evidence regarding motive, last-seen circumstance and subsequent recovery of the dead body remains consistent and inspires confidence.No material contradiction affecting the core of the prosecution case has been brought on record. From the foregoing discussion and appreciation of the oral, documentary and circumstantial evidence available on record, this Court finds that the prosecution has been able to successfully establish the following incriminating circumstances against the accused

- (i) Strong motive arising out of the mobile phone dispute,
- (ii) Threat extended to the deceased prior to the occurrence,
- (iii) The deceased being called and taken away by the accused

persons,

(iv) The deceased being last seen alive in their company,

(v) Death occurred within a short span thereafter,

(vi) Failure of the accused persons to explain the circumstances under which the deceased disappeared after accompanying them,

(vii) Medical evidence not ruling out homicidal death and failing to conclusively support the theory of accidental railway death.

These circumstances form a complete and unbroken chain leading only to the inference that it was the accused persons who caused the death of Saurav Kumar. The plea of accidental railway death appears to be an afterthought and finds no support from the evidence on record. The defence has failed to create any reasonable doubt regarding the prosecution case. Accordingly, this Court is satisfied that the prosecution has succeeded in proving beyond reasonable doubt that the accused persons, in furtherance of their common intention and pursuant to their conspiracy arising out of previous enmity, caused the death of Saurav Kumar and thereafter attempted to screen themselves from legal punishment by causing the body to be found near the railway track. This Court, therefore, holds accused **Dinesh Yadav (A-1)** guilty for the offences punishable under Sections **302 IPC, 201 IPC read with section 120-B IPC**. Accordingly, accused **Dinesh Yadav (A-1)** is hereby **convicted** for the offences punishable under Sections **302, 201 read with section 120-B of the Indian Penal Code**.

ORDER

The accused **A-1(Dinesh Yadav)** is thus found and held guilty under the charges **under Section 302, 201 read with section 120 B of IPC and convicted for the same**.

On Conviction, the Learned Counsel for convict prays that since there is no previous conviction, nature of offence warrants that the convicts be given benefit of probation of offenders Act. It is objected from the side of prosecution. Heard both sides on the said point. Considering the fact that the offences where maximum punishment that can be inflicted

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is Life imprisonment as such, he is not legally eligible for any benefit under Probation of offender's act. He is already under custody. Put up on 17th of June, 2026 for hearing on the point of sentence

The Judgment is pronounced physically in open Court. It is dictated and corrected by me.

**(Kumar Amit Manu)
Additional Sessions. Judge-I
Banka.**

Dated-10.06.2026

ON SENTENCE

Date:- 17.06.2026

15. Heard both sides on the point of sentence. Learned Counsel appearing for the convict submits that the convicts Dinesh Yadav has no previous conviction and is the sole bread- earner of their family. It is also emphasized that the offence lacks brutality and that the case deserves consideration under Section 304 of the Indian Penal Code.

Per contra, learned APP for the State has vehemently opposed the submissions and contended that the offence committed is extremely Serious having multiple injuries all over the body showing extreme brutality. It is submitted that he had committed a murder in conspiracy, which is cold blooded, which clearly reflects the diabolical and cruel nature of the crime. On such grounds, the prosecution has prayed for awarding maximum punishment.

16. This Court has considered the rival submissions and carefully perused the record on the point of sentence. While considering the award of maximum sentence in a murder case, this Court is required to examine whether the case satisfies the test of "rarest of rare," as laid down by the Hon'ble Supreme Court in *Bachan Singh v. State of Punjab*, AIR 1980 SC 898 and *Machhi Singh v. State of Punjab*, (1983) 3 SCR 413. Applying the said principles, this Court finds that the present case does not fall within the category of "rarest of rare." Although every murder is undoubtedly heinous, the extreme penalty of death is reserved for cases exhibiting exceptional depravity or brutality. In the present case, certain mitigating circumstances, as highlighted by the learned counsel for the convict, deserve consideration. Mitigating circumstance is that he is the sole earning member of his family. The victim was neither a woman nor a person belonging to a particularly vulnerable section of society nor was he a public servant or public figure. The case does not involve multiple murders or crimes of socially abhorrent nature nor is there any evidence suggesting the involvement of a hired assassin. On a cumulative assessment of aggravating and mitigating

circumstances, this Court is of the firm opinion that the case does not warrant imposition of the death penalty.

- Convict A1 Dinesh Yadav, is hereby convicted U/S 302 read with sec 120 B of IPC and sentenced to undergo Imprisonment for life and fine of twenty-five thousand rupees (₹25,000/-) and on non-payment of fine, simple imprisonment of six months.
- Convict A1 Dinesh Yadav, is hereby convicted U/S 201 read with sec 120 B of IPC and sentenced to undergo simple imprisonment for three Year and fine of five thousand rupees (₹5,000/-) on non-payment of fine, simple imprisonment of two months.

17. Both the sentences shall **run concurrently**. The period of detention already undergone by the convict during trial shall be set off under Section 428 CrPC.

Accused Details

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences Charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428 Cr.P.C.
1	Dinesh Yadav	11.11.23	In custody	302, 201, read with section 120(B) of IPC	convicted	Convict Dinesh is sentenced to undergo Imprisonment for life and fine of twenty-five thousand rupees (₹25,000/-) and on non-payment of fine, simple imprisonment of six months, for the offence punishable u/s 302 read with sec. 120B of IPC and also sentenced to undergo simple	02 years 07 months 06 days

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						imprisonment for three Years and fine of five thousand rupees (₹5,000/-) on non-payment of fine, simple imprisonment of two months for the offence punishable u/s 201 read with sec.120 B of IPC.	
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Office is directed to prepare the Conviction Warrant accordingly.

A copy of the judgment be supplied to the convict free of cost forthwith.

Judgment pronounced in open Court while the convict is produced physically.

It is dictated and corrected by me.

(Kumar Amit Manu)
Additional Session Judge- I
Banka
Dt. : 17.06.2026

(Kumar Amit Manu)
Additional Session Judge-I
Banka
Dt. : 17.06.2026

ON THE QUESTION OF VICTIM COMPENSATION

Date: 17.06.2026

18. Upon careful perusal of the record, this Court is of the considered view that the legal heirs/guardian of the deceased in this case, *Saurav Yadav, S/O Pappu Yadav, Village-Chakroushan, PS- Rajaun, Dist-Banka*, deserve to be suitably compensated for the permanent and irreparable loss of their family member. The prosecution has successfully proved the charge of murder against the convict, and they have been duly sentenced in accordance with law.

At the conclusion of the trial and after final hearing, it is incumbent upon the Court to record a finding as to whether a case for grant of victim compensation has been made out and, if so, to identify the person entitled thereto. Having regard to the gravity and nature of the offence, as well as the permanent loss suffered by the family of the deceased, this Court is satisfied that the present case is a fit one for recommending award of compensation to the legal heirs/guardian of deceased under Section 357A(2) of the Code of Criminal Procedure. **Accordingly, the Office is directed to forward the recommendation to the Secretary, District Legal Services Authority, Banka, within a week, for needful in accordance with law.**

(Kumar Amit Manu)
Additional Sessions Judge I,
Banka
Dt. :17.06.2026

(Kumar Amit Manu)
Additional Sessions Judge-I,
Banka
Dt. :17.06.2026