

1.
IN THE COURT OF ADDL. SESSIONS JUDGE 1ST, KISHANGANJ
Present:- Suresh Kumar Singh II
Sessions Trial No.-110/2025
C.I.S. No.- 110/2025

IN THE COURT OF ADDL. SESSIONS JUDGE 1ST, KISHANGANJ Present:- Suresh Kumar Singh-II Date of Judgment:- 25/05/2026 Sessions Trial No.-110/2025 C.I.S. No.- 110/2025 Details of FIR No.-38/2024 and Police Station- Dighalbank	
Through the State of Bihar (Informant) ASI/GD - Surendra Singh, S/o- Sri Kalam Singh, At- 12 BN 'G' SSB, P.S- Dighalbank, Distt- Kishanganj.	
Represented by	Sri Suren Prasad Saha, learned A.P.P.
Accused	1. 1. Shafiul Alam & 2. 2. Md. Mukhlesh 3.
Represented by	Sri Anindo Kumar Das, Learned Advocate. Sri Vinamra Sudarshan Learned LADC.

Date of offence	30/03/2024
Date of FIR	31/03/2024
Date of Charge-sheet	20/05/2024
Date of framing of Charge	20/05/2025
Date of commencement of evidence	04/06/2025
Date on which Judgment is reserved	19/05/2026
Date of the Judgment	25/05/2026
Date of the Sentencing order, if any.	30/05/2026

Accused Details:-

Rank of the Accused	A-1
Name of Accused	Shafiul Alam, Age- 43 Years, S/o- A. Jabbel, R/o- North Hardfort Avenue House No 102, Atlanta City, New Jersey 08401, U.S.A. ,
Date of Arrest	31.03.2024
Date of Release on Bail	N/A
Offence Charged with	U/s- 14(A) (b) of Foreigners Act 1946.
Whether Acquitted or Convicted	CnvictedU/s- 14(A) (b) of Foreigners Act 1946.
Sentence Imposed	S.I. for 2 years and 6 months and fine of Rs. 10,000/-
Period of Detention	02 Years, 01 Month, 29 Days.

under gone during Trial for purpose of Section 428 of Cr.P.C.	
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Rank of the Accused	A-2
Name of Accused	Md. Mukhlesh, Age- 42 Years, S/o- Razzak Ali, R/o- Mohmari Kharwa Toli, P.S.- Dighalbank, District- Kishanganj.
Date of Arrest	31.03.2024
Date of Release on Bail	28.03.2025
Offence Charged with	U/s- 14 (c) of Foreigners Act 1946
Whether Acquitted or Convicted	Acquitted
Sentence Imposed	
Period of Detention under gone during Trial for purpose of Section 428 of Cr.P.C.	

1. Attached:

APPENDIX OF EVIDENCE INDEX.

LIST OF PROSECUTION DEFENCE / COURT WITNESSES

A. PROSECUTION

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS
P.W. 1.	Sevindra Kumar	Police witness
P.W. 2.	Jobin thomas	Police witness
P.W. 3.	Deba Kumar Budue	Police witness
P.W. 4.	Puspin Kumar Singh	Police witness
P.W. 5.	Santosh Kumar	Police witness
P.W. 6.	Sankh Raj Karn	Police witness (I.O.)
P.W. 7.	Surendra Singh	Police Witness (Informant)

B. Defence Witness, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE
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		WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS
N.A	N.A	N.A

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS
CW	N.A.	N.A.

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A. Prosecution:-

Sr. No.	Exhibit No.	Description
1.	Exhibit 1	Signature of P-1/P.W.7 on Typed Application.

B. Defence:

Sr. No.	Exhibit Number	Description
1.	N.A.	N.A.

C. Court Exhibit:

Sr. No.	Exhibit Number	Description
1.	Exhibit	

D. Material Object:

Sr. No.	Exhibit Number	Description
1.	N.A.	N.A.

J U D G M E N T

1. The accused persons namely Shafiul Alam stand charged for having committed offences U/s- 14(a) of Foreigners Act, 1946 and Md. Mukhlesh stand charged for having committed offences U/s- 14(c) of Foreigners Act, 1946. However, they pleaded not guilty and claimed to be tried.

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2. Prosecution case in nutshell as per Typed Application of the informant ASI/GD Surendra Singh, is that on 30.03.2024 at 15.00 hours, information received from the intelligence network that some suspicious persons were seen near the india-Nepal border. Acting on the information, patrolling party was sent towards border. When he reached there he saw that two suspicious persons were seen coming from the border side in Dighalbank market. Seeing the patrolling of SSB both these persons tried to flee away. The party apprehended the two suspects and asked the reason for fleeing away, then both disclosed their names respectively as 1. Name Shafiul Alam and 2. Md. Mukhlesh. Mukhlesh revealed that a deal was struck to transport Shafiul Alam from kakarbhota, Nepal to siliguri via Bangladesh for a sum of Rs. 1 Lakh. Initial Questioning revealed that Shafiul Alam had been staying at the Dhaka Thamel Hotel in Kathmandu, Nepal, for the past year (tourist visa dated 23.05.2020) The passport expired in November, 2023. On the basis of Typing Application of the informant Dighalbank P.S. case no. 38/2024 was registered u/s 14/14(c) of Foreigners Act, 1946.

3. After investigation the police submitted charge-sheet against the accused persons Shafiul Alam and Md. Mukhlesh vide charge-sheet number- 84/2024, on 20.05.2024, for the offence u/s- 14(c) of Foreigners Act, 1946. Cognizance of offence was taken in this case against the accused persons Shafiul Alam and Md. Mukhlesh for the offence u/s- 14/14(c) of Foreigners Act, 1946. by the court of learned A.C.J.M. I Kishanganj vide its order dated 21/05/2024.

4- After cognizance charges were framed against the accused persons by the court of ACJM and evidence of witnesses was recorded. But after examination of witnesses case record was committed to the court of sessions on 23.04.2025.

5. In the court of sessions case was registered and case record was transferred to this court. Charge has been framed in this case on 20/05/2025, against the accused Shafiul Alam stand charged for having committed offences U/s- 14(A)(b) of Foreigners Act, 1946 and accused Md. Mukhlesh stand charged for having committed offences U/s- 14(c) of Foreigners Act, 1946. The content of charges were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

6. Prosecution has produced oral and documentary evidence to prove its case. As oral evidence the prosecution has produced PW

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-1 Sevindra Kumar, PW -2 Jobin Thomas, PW -3 Deba Kumar Budue, PW -4 Puspini Kumar Singh, PW -5 Santosh Kumar, PW -6 Sankh Raj Karn(Investigation Officer) and PW-7 Surendra Singh (Informant) .

7. The prosecution has produced following documentary evidence.

Ext.- 1- The signature of informant Surendra Singh on Typed Application.

8 . After closure of prosecution evidence, statement of the accused persons was recorded u/s 313 of Cr.P.C. on 01.11.2025, in which they claimed to be innocent and also pleaded false implication.

9. Defence has not produced any witness in support of their case.

10. Now the question before this court is that whether the prosecution has been able to prove the charges leveled against the accused persons beyond all shadow of reasonable doubt?

FINDINGS

10. Prosecution has produced 7 witnesses to prove its case.

P.W. 1 is Sivendra Kumar who is Constable of SSB. This witness has said in his evidence that on 30.03.2024 at about 3:30 to 4:00 PM he was in patrolling along with patrolling party. His senior officer ASI Surendra Kumar, Constable Santosh Kumar and others were with him. When they reached in the Dighalbank market then they saw that two persons were coming from the boarder side. They were stopped by them and on enquiry one of them disclosed his name as Mukhlesh and another disclosed his name as Shafiul Alam Shafiul Alam was unable to give satisfactory answer. On search passport of America, Nepal and Bangladesh was recovered from the possession of Shafiul Alam. He did not have any document authorizing his entry into in India. On enquiry he said that Mukhlesh has taken Rs. one lakh from him to take him to Silliguri. In para-3 of his cross examination this witness has said that earlier he has dispose in the court of the C.J.M in this case. In para-4 this witness has said that only mobile was recovered from the possession of

Mukhlesh. In para-7 this witness has said the accused persons tried to flee away seeing the police personnel.

11. **P.W. 2** is Jobin Tomas who is constable of SSB. This witness has said that the occurrence took place on 30.03.2024 at about 3:00 PM. He along with other officials were in patrolling. When they reached near boarder in Dighalbank market they saw two persons were coming from the side of boarder who were stopped by them. On enquiry one of them disclosed his name as Mukhlesh and other disclosed his name as Shafiul Alam. Shafiul Alam was of residence of America. Shafiul disclosed that he is Bangladeshi but he resides in America. His passport and visa was expired. Safiul also disclosed that Mukhlesh has taken Rs. one lakh from him to take him to to Silliguri. In his cross examination this witness has said that he is Christian. In para-4 of his cross examination he said that Shafiul was not arrested from the village or home of the Mukhlesh. He was arrested from Dighalbank market.

12. **P.W. 3** Deba Kumar Budue who is constable of SSB. This witness has said that the occurrence took place on 30.03.2024 at about 3:00 PM. He got information that they have to go towards Dighalbank Market for patrolling. On this information he along with other officials gone towards Dighalbank market then they saw two persons were trying to flee away on seeing them who were apprehended by them. They disclosed their name as Mukhlesh and Shafiul. American passport was recovered from the possession of Safiul which was expired. In his cross examination this witness has said that on the day when the accused were arrested they were kept in SSB camp in Dighalbank. There is SSB check post at the boarder of India and Nepal. In para-6 this witness has said that accused persons were arrested from the market.

13. **P.W. 4** is Puspin Kumar Singh who is constable of SSB. This witness has said that the occurrence took place on 30.03.2024 at about 3:00 PM. He was in Dighalbank Camp then he got information that there is some illegal activities going on. Then he along with patrolling team gone towards Dighalbank market then they saw two persons were trying to flee away seeing the police persons. They were apprehended by them. One of them was Shafiul who is residence of New Jersy America and another was

Mukhlesh who is residence of Mahamari. In his cross examination this witness has said that I.O of this case was Somesh Goyal. He has no conversation with him.

14. **P.W. 5** is Santosh Kumar who is constable of SSB. This witness has said that the occurrence took place on 30.03.2024 at about 03:00 PM. He along with other police persons were in patrolling when they reached at Dighalbank market. They saw two persons trying to flee away to seeing them and were apprehended. On enquiry it transpires that one of them was foreigner and other was local who were arrested and brought to the police station. In his cross examination this witness has also supported the prosecution case.

15. **P.W.6** Sankh Raj Karn who is I.O. of this case. This witness has said that on 31.03.2024 he was posted as PSI in Dighalbank police station. On that day he got charge of investigation of Dighalbank PS Case No. 38/2024. After taking charge of investigation he made inspection of place of occurrence which is 800 meter east from the Dighalbank police station. After that he recorded statement of witnesses and also recorded defence statement of Shafiul Alam and after investigation he submitted charge sheet. In para-5 of his cross examination this witness has said that since the time of occurrence and till giving information to the police station the accused persons were in the custody of SSB. In para-7 this witness has said that all the witnesses are constables and officials of SSB. In para-11 this witness has said that during investigation he did not record statement of any person of village Mohmari.

16. **P.W. 7** ASI Surendra Singh who is ASI of SSB. This witness is informant of this case. He said in his evidence that on 30.03.2024 he was posted at SSB Post Dighalbank. On that day at about 3:00 PM he got information that two persons are moving here and there in suspicious circumstance in the boarder area. On this information he along with other officials went for patrolling towards Dighalbank market then he saw that two persons tried to flee away to see the police persons who were apprehended by them. One of them disclose his name as Mukhlesh and other disclose his name as Shafiul. One mobile, dollar and Nepali currency was recovered from the possession of Shafiul. After that

both the persons were arrested and brought before the police. On the basis of his evidence his signature over typed application was marked as P-1/PW-7. In para-5 of his cross examination this witness has said that application for FIR was typed in the police station and after that seizure list was prepared. In para-6 this witness has said that he has no knowledge that what was the distance between Dighalbank police station to Dighalbank market.

17. Heard Learned defence counsel and Learned A.P.P for the State at length and considered the facts and circumstances of the case.

18. So far as Accused Muklesh is concerned, he is Indian and there is allegation against him that he took Rs. 100000/- from co-accused Shafiul for taking him to Siliguri. Witness have said that accused Shafiul disclosed to them that Mukhlesh has taken Rs. 1 Lakh from him for taking him to Siliguri. But no amount of money was received from the possession of Mukhlesh. No independent Witness or Villagers has been examined to prove that Mukhlesh has take any money for the Shafiul . I.O of the case has said in his cross - examination that he has not recorded statement of any persons of village Mohmari Kharbal tola. From the discussions made above it is clear that the prosecution has not been able to prove charges against accused Mukhlesh by sufficient evidence.

19. On the basis of discussion made above I came to the concussion that the prosecution has not been able to prove charge U/S- 14(c) of foreigners Act against accused Mukhlesh. Hence he is not guilty of the said charge and he is here by acquitted. The accused and his bailors are discharge from the liabilities of their respective bail bonds.

20. So far as charges against accused Shafiul is concerned prosecution witnesses supported the prosecution case. P.W. 7 who is informant of this case has said in his evidence that on 30.03.2024 at about 3:30 to 4:00 PM he was in patrolling along with patrolling party. His senior officer ASI Surendra Kumar, Constable Santosh Kumar and others were with him. When they reached in the Dighalbank market then they saw that two persons were coming from the boarder side. They were stopped by them and on enquiry one of them disclosed his name as Mukhlesh and another disclosed his name as Shafiul. Safiul say that he is American and he was unable to give satisfactory answer . On

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search passport of America, Nepal and Bangladesh was recovered from the possession of Shafiul. He did not have any document authorizing his entry into India. He identified the accused in the court. On enquiry he said that Mukhlesh has taken Rs. one lakh from him to take him to Silliguri. He identified the accused in the court. This witness was cross examined at length but nothing came out contrary to the statement made in the examination in chief. The above statement of P.W.7 also found corroboration from P.W. 1, P.W. 2, P.W. 3, P.W.4 and P.W. 5 who were also member of patrolling party. They also identified the accused before the court. They were also cross examined at length but their evidence remain unshaken. P.W. 6 is I.O. of the case who investigated the case and submitted charge-sheet against the accused. His evidence also remained unshaken during cross examination.

21. Therefore, from the aforesaid discussions and appreciation of evidence it can be safely concluded that prosecution has been able to proved charge u/s 14(A)(b) of the Foreigners Act against Accused Shafiul Alam beyond all reasonable doubts.

Order

In the result the accused Shafiul Alam is hereby convicted for the offence u/s 14(A)(b) of the Foreigners Act . The convict Shafiul Alam is already in judicial custody . Put up on 30.05.2026 for hearing on the point of sentence.

Dictated and Corrected by Me.

Sd./-
(Suresh Kumar Singh-II)
Addl. Sessions Judge-I

Dated:-25-05-2026

Sd./-
(Suresh Kumar Singh-II)
Addl. Sessions Judge-I
Kishanganj
Dated:-25-05-2026

30.05.2026

Hearing on the point of sentence

Heard learned defence counsel and learned A.P.P. on question of sentence. Perused the case record.

The Learned A.P.P. has submitted that the convict Shafiul Alam has been found guilty for the offence u/s-14(A)(b) of the Foreigners Act. convicts should be awarded maximum prescribed punishment.

The Learned defence counsel has submitted that the convicts Shafiul Alam was aged about 41 years on the date of occurrence. He is in custody since 31.03.2024. Hence in awarding the punishment lenient view should be adopted.

The convict Shafiul Alam has been found guilty for the offence u/s-14(A)(b) of the Foreigners Act. On the date of occurrence the convict 1. Shafiul Alam was aged about 41 years.. The Prescribed punishment for offence 14(A)(b) foreigners Act is imprisonment for a term which shall not be less than two years, but may extend to eight years and shall also liable to fine which less than Rs. 10000/- but may extend to fifty thousand rupees. The convict is in custody since 31.03.2024.

On due consideration of facts and circumstances of the case the court is of the considered opinion that in respect of convict Shafiul Alam simple imprisonment for a period of 2 years and 6 months and fine of Rs. 10,000/- for the offence u/s- 14 (A)(b) Foreigners Act would serve the interest of justice.

ORDERED

Accordingly, the convict Shafiul Alam is ordered to serve simple imprisonment for 2 years and 6 months and fine of Rs. 10,000/- for the offence u/s- 14 (A)(b) Foreigners Act . In case of default in payment of fine the convicts shall serve further simple imprisonment for a term of one month. Period of custody already undergone by the convict shall be set off.

Dictated and Corrected by Me.

Sd./-
(Suresh Kumar Singh-II)
Addl. Sessions Judge-I
Kishanganj
Dated:-30-05-2026

Sd./-
(Suresh Kumar Singh-II)
Addl. Sessions Judge-I
Kishanganj
Dated:-30-05-2026

11.

IN THE COURT OF ADDL. SESSIONS JUDGE 1ST-, KISHANGANJ

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