

IN THE COURT OF DISTRICT AND ADDITIONAL SESSIONS JUDGE III, JHANJHARPUR		
Present Anil Kumar Ram Bihar Superior Judicial Service		
<u>Sessions Trial No. 233 of 2024</u> <u>CIS- 233/2024</u> GR No. – 1822/2023 Arising out of Phulparas P.S. Case No. 495 of 2023		
Date of Judgment – The 3 rd day of July , 2026		
Informant/Prosecution	State of Bihar through the Informant Sita Devi, Wife of Late Ramesh Yadav, Resident of Village- Siswa Barhi, P.S.- Phulparas, District- Madhubani	
Represented By	Sri Deo Shankar Jha, Learned APP	
Accused Persons	(A1)	Kishori Yadav @ Kishori Kumar Yadav, aged about 25 years, Son of Hari Dev Yadav, Resident of Village- Sapt, P.S.- Rahika, District- Madhubani
	(A2)	Prakash Mishra @ Laden, aged about 32 years, Son of Late Umesh Mishra, Resident of Village- Ghoghardiha, P.S.- Ghoghardiha, District- Madhubani
Represented By	Sri Vijay Kumar Prasad and Sri Ashok Kumar Jha Ld. Advocate	
<u>Abridged Chronology of the Case</u>		
District	Madhubani	
Police station	Phulparas	
Date of occurrence		-
FIR	495/2023	12.10.2023
Charge sheet	81/2024	28.01.2024
Cognizance	U/s-302, 120(B)/34 of IPC	09.02.2024
Commitment		18.05.2024
<u>P.O.-Anil Kumar Ram,</u> <u>District & Addl. Sessions Judge-III, Jhanjharpur</u> <u>Sessions Trial 233 of 2024</u> <u>State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav</u> <u>& Ors</u> <u>P.S-Phulparas, FIR. No-495/2023</u> <u>Judgment of conviction dated-03/07/2026</u>		
		Page 1 of 23 pages

IN THE COURT OF DISTRICT AND ADDITIONAL SESSIONS JUDGE III, JHANJHARPUR		
Charge	U/s-302, 120(B)/34 of IPC	25.07.2024
Commencement of Evidence		07.08.2024
Prosecution evidence closed		16.04.2026
Statement u/s 313 of Criminal Procedure Code		23.04.2026
Defence evidence closed		23.04.2026
Argument concluded		19.06.2026
Date of Judgment		03.07.2026
Date of Sentencing order		04.07.2026

Appendix of Evidence

LIST OF WITNESSES

1) Prosecution

S. N.	Name	Type
P.W.-1	Surendra Yadav	Hostile
P.W.-2	Kameshwar Yadav	Witness
P.W.-3	Upendra Prasad Yadav	Witness
P.W.-4	Santosh Kumar Yadav	Witness
P.W.-5	Dr. Ravi Prakash	Doctor
P.W.-6	Dharmendra Kumar	I.O.
P.W.-7	Sita Devi	Informant
P.W.-8	Kanchan Kumari	Witness
P.W.-9	Sonu Kumar	Witness
P.W.-10	Arjun Yadav	Witness

2) Defence has not adduced any oral evidence

*** LIST OF EXHIBITS-**

1) Prosecution

Exhibit-P-1	Signature of Dr. Ravi Prakash on postmortem report of Amit Kumar Yadav.
Exhibit-P-2	Signature of Dr. Amrendra Kumar Amar on postmortem report of Amit Kumar Yadav.
Exhibit-P-3	Signature of I.O. Dharmendra Kumar on Charge sheet no.-81/2024 dated 28.01.2024 of Phulparas P.S. Case No. 495 of 2023
Exhibit-P-4	Signature of S.H.O. Lalan Chaudhary on Charge

P.O.-Anil Kumar Ram,
District & Addl. Sessions Judge-III, Jhanjharpur
Sessions Trial 233 of 2024
State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors
P.S-Phulparas, FIR. No-495/2023
Judgment of conviction dated-03/07/2026

Page 2 of 23 pages

IN THE COURT OF DISTRICT AND ADDITIONAL SESSIONS
JUDGE III, JHANJHARPUR

sheet no.-81/2024 dated 28.01.2024 of Phulparas P.S.
Case No. 495 of 2023

2) Defence has not adduced any documentary evidence.

Rank of 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.
(A1)	Kishori Yadav @ Kishori Kumar Yadav	Arrested on 11.11.2023	In custody	U/s-302, 120(B)/34 of IPC	convicted	---	---
(A2)	Prakash Mishra @ Laden	Arrested on 11.11.2023	In custody	U/s-302, 120(B)/34 of IPC	convicted	---	---

JUDGMENT

1. Both accused persons namely (A1) Kishori Yadav @ Kishori Kumar Yadav and (A2) Prakash Mishra @ Laden facing trial for offence under sections U/s-302, 120(B)/34 of IPC.

Factual background

2. The prosecution case according to the FIR in brief is that on 10.10.2023 around 07:00 PM Amit Kumar (son of informant) was at home. At that time, Om Prakash Yadav, Amish Kumar, Amlesh Kumar, Kishori Yadav and Birendra Kumar riding on two motorcycles reached there. Om Prakash Yadav seated Amit Kumar on his motorcycle. On forbade, Om Prakash told that after having feast, they will return. Last communication was made with Amit Kumar on his mobile No. 8210969416 at 08:00 PM and after that his mobile was found switched off. When he did not come back in the night, informant along with his family members went to the house of Om Prakash on 11.10.2023 around 04:00 AM. and when they enquired about Amit Kumar, he started shouting and around 11:00 AM, it came to notice that a dead body was found near Dhanoja-Bahuarwa Canal. When the informant party reached

P.O.-Anil Kumar Ram,
District & Addl. Sessions Judge-III, Jhanjharpur
Sessions Trial 233 of 2024
State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors
P.S-Phulparas, FIR. No-495/2023
Judgment of conviction dated-03/07/2026

Page 3 of 23 pages

**IN THE COURT OF DISTRICT AND ADDITIONAL SESSIONS
JUDGE III, JHANJIHARPUR**

there, they found a dead body with head and leg cut off sealed in bag floating in the water. The dead body was taken out of the water and the same was identified as Amit Kumar. It is alleged that above named accused along with Dinesh Yadav and 04-05 unknown persons murdered the son of informant.

3. On the basis of written report of Informant Sita Devi, an F.I.R. was instituted by the police. After completion of the investigation, the police submitted charge sheet against the accused persons U/s-302, 120(B), 34 of IPC. After cognizance and furnishing relevant copies of the Police papers to the accused persons under section 207 of Cr.P.C., the case was committed to the Court of Sessions u/s 209 of Cr.P.C. on 18.05.2024.

Trial proceedings

4. After hearing both sides and on the basis of the materials available on record, charge against all accused persons for offence U/s-302, 120(B)/34 of IPC were read over and explained to them in Hindi language to which they refused to plead guilty and claimed to be tried.

5. The prosecution has produced as many as ten witnesses namely P.W.-1 Surendra Yadav, P.W.-2 Kameshwar Yadav, P.W.-3 Upendra Prasad Yadav, P.W.-4 Santosh Kumar Yadav, P.W.-5 Dr. Ravi Prakash, P.W.-6 Dharmendra Kumar, P.W.-7 Sita Devi, P.W.-8 Kanchan Kumari, P.W.-9 Sonu Kumar and P.W.-10 Arjun Yadav in support of its case. The prosecution has also got exhibited following documents in support of their case:-Exhibit-P-1 is signature of Dr. Ravi Prakash on postmortem report of Amit Kumar Yadav. Exhibit-P-2 is Signature of Dr. Amrendra Kumar Amar on postmortem report of Amit Kumar Yadav. Exhibit-P-3 is Signature of I.O. Dharmendra Kumar on Charge sheet no.-81/2024 dated 28.01.2024 of Phulparas P.S. Case No. 495 of 2023. Exhibit-P-4 is Signature of S.H.O. Lalan Chaudhary on Charge sheet no.-81/2024 dated 28.01.2024 of Phulparas P.S. Case No. 495 of 2023.

P.O.-Anil Kumar Ram,

District & Addl. Sessions Judge-III, Jhanjharpur

Sessions Trial 233 of 2024

State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors

P.S-Phulparas, FIR. No-495/2023

Judgment of conviction dated-03/07/2026

Page 4 of 23 pages

6. After completion of prosecution evidence, statement of accused persons were recorded U/S 313 of Cr.P.C by putting all incriminating evidence available against them, to which they denied and pleaded that they are innocent.

7. The defence has not produced documentary and oral evidence.

Brief statements of the prosecution witnesses

8. **Prosecution Witness No. 1 Surendra Yadav has been declared hostile and has not supported the prosecution case.**

9. **Prosecution Witness No. 2 is Kameshwar Yadav.** In his examination in chief he has stated that the incident occurred approximately one year ago. He has further stated that in the evening, Kishori Yadav, Omprakash Yadav, Amlesh Kumar and Amish Kumar took Amit Yadav away with them on a motorcycle. They told him "We are hosting a feast at our place, come and join us for the meal." Amit Kumar Yadav did not return that night. He has further stated that we remained in contact with Amit until 8:00 PM, after which his mobile phone was found to be switched off. He has further stated that on the next morning, we went to Omprakash Yadav's residence to make inquiries and he stated that Amit had left the premises during the night itself and further stated that bloodstains were observed on the bodies of Omprakash and Kishori Yadav. He has further stated that during the subsequent search, between 10:00 and 11:00 AM, we received information regarding a body stuffed inside a sack in the canal situated between Dhanauja and Bahaurba. We proceeded to the canal and recovered the corpse from the sack. The body was missing its head and feet and in the meantime, the police also arrived at the scene. He has further stated that the body was identified as that of Amit Kumar Yadav based on a Tattoo inscribed on his hand. He has further stated that in addition to all the abovenamed accused Virendra Yadav along with three or

P.O.-Anil Kumar Ram,

District & Addl. Sessions Judge-III, Jhanjharpur

Sessions Trial 233 of 2024

State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors

P.S-Phulparas, FIR. No-495/2023

Judgment of conviction dated-03/07/2026

**IN THE COURT OF DISTRICT AND ADDITIONAL SESSIONS
JUDGE III, JHANJIHARPUR**

four other unidentified persons lured the deceased, Amit Kumar Yadav, away under the pretext of a feast and subsequently murdered him. Two or three days later, the severed head and feet of the deceased were recovered. During the course of the investigation, it was also revealed that Dinesh Yadav son of Rambabu Yadav, resident of Bahaurba, Police Station-Phulparas, District-Madhubani was also involved in this crime. He claimed to identify the accused.

In cross examination in para 4 he has stated that when accused taken away Amit for feast, I was present there. In para 8 he has stated that my Bhabhi told me that deceased son of informant has not come in night and has further stated on phone that one dead body was lying on canal. In para 9 he has stated that he heard that accused has killed the deceased.

10. Prosecution Witness No. 3 is Upendra Prasad Yadav. In his examination in chief he has stated that the incident occurred approximately 15 months ago at 7:00 PM. He has further stated that Kishori Yadav, Uma Yadav and Dinesh Yadav took Amit Yadav away from his home, all riding on a motorcycle. They told him "We are hosting a feast at our place, come and join us for the meal." He has further stated that Amit's mother tried to stop him from going but the accused assured her saying, "We will drop him back after the feast." He has further stated that Amit Kumar Yadav did not return that night and his mother searched for him, but he could not be found. He has further stated that during the course of the search, between 12:00 PM and 1:00 AM the following day, information was received regarding the recovery of a body in a canal. He has further stated that upon examining the corpse, a Tattoo (Godna) was observed on the wrist, which served to identify the body as that of Amit and furthermore his head, torso and hands had all been severed. The accused had lured Amit away from his home and murdered him by severing his head and torso. He identified accused present in the court and claims to identify other accused.

In cross examination in 7 he has stated that Sita Devi had told that accused has taken away Amit for feast. In

P.O.-Anil Kumar Ram,

District & Addl. Sessions Judge-III, Jhanjharpur

Sessions Trial 233 of 2024

State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors

P.S-Phulparas, FIR. No-495/2023

Judgment of conviction dated-03/07/2026

Page 6 of 23 pages

para 8 he has stated that he has not seen the alleged occurrence from his own eyes.

11. **Prosecution Witness No. 4 is Santosh Kumar Yadav.** In examination in chief he has stated that the incident occurred on October 10, 2023, at 7:00 PM. He has further stated that five to six men namely Birendra Yadav, Om Prakash Yadav, Anish Yadav, Amlesh Yadav, Prakash Mishra, and Dinesh Yadav arrived at Amit Kumar's house on two motorcycles and they took away Amit on the motorcycles to the village of Navtol where the accused, Om Prakash Yadav, resides to attend a feast. He has further stated that Kishori Yadav was driving one motorcycle, while Om Prakash Yadav was driving the other. He has further stated that Amit did not return home by 8:00 PM that night and his mobile phone was switched off. He has further stated that he still had not return by the next morning. He has further stated that consequently, Amit's mother, Sita Devi and the rest of us began searching for him and during the course of our search, we went to Om Prakash Yadav's house in Navtol. He has further stated that Om Prakash was sleeping on a cot and when we questioned him, he scolded us and drove us away. He has further stated that continuing our search at 11:00 AM, we received information that a body had been found in a canal in the village of Bahorba and we proceeded to the location. He has further stated that upon arrival, we observed that the body's legs and head had been severed and when we cut open the sack containing Amit's body, we noticed a Tattoo on the wrist bearing the inscription "Amit Kumar," through which we were able to identify the deceased. He has further stated that by the time we reached the canal, the police had also arrived at the scene and the deceased Amit Kumar was brought to the Phulparas Sub-division, from where the body was sent to Madhubani for a post-mortem examination. He identified the accused person.

In cross examination in para 7 he has stated that villagers Rudal Yadav and Achhe Yadav told that one dead body is lying near canal.

P.O.-Anil Kumar Ram,

District & Addl. Sessions Judge-III, Jhanjharpur

Sessions Trial 233 of 2024

State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors

P.S-Phulparas, FIR. No-495/2023

Judgment of conviction dated-03/07/2026

12. Prosecution Witness No. 5 Dr. Ravi Prakash is Doctor.

In examination in chief he has stated that On 11-10-2023 I was posted as M.O. at Sadar Hospital, Madhubani. On that date at 07:00 P.M. I was conducted PM of a dead body of a Hindu Male aged about 19 years named as Amit Kumar Yadav S/O Late Ramesh Yadav of village-Sisba Bardi, P.S. Phulparas, District-Madhubani identified by Chaukidar 1/6 Rambharos Paswan of Phulparas P.S.

.Clothes And articles sent with the corpse, etc:-Handed over to Chaukidar as per challan

.Condition of subject Including physique and Nutrition, on genital/acquired peculiarity, P.M., lividity, Rigor mortise, degree of decomposition, obstruction of natural orifices, if any and in case of new born infant, mention. Condition of umbilical cord :- Neck to head not present in dead body, Fist-Open, Rigor mortis Present.

External injury:-

There was no neck to head present in body.

Multiple sharp cutting present in neck region.

There was not preset both below knee joint.

Multiple sharp cutting over both knee joints.

On dissection:-

-All viscera pale namely heart, lungs, liver, spleen and both kidney.

- Stomach containing semi digested food materials and gases.

-Intestine containing faecal matter and gases.

- Urinary bladder empty.

Viscera preserved for forensic lab test namely heart, lungs, liver, spleen, kidney, blood, stomach, Intestine, handed over to Chaukidar.

Time since death within 24 hrs.

Opinion regarding cause of death reserved till the report of forensic science lab comes.

2. This P.M report bears my signature and I identified, marked as exhibit P-1 and bears Dr. Amrendra Kumar Amar signature and I identified, marked as exhibit P-2.

In cross examination in para 6 he has stated that head and legs were severed from the dead body. In para 7 he has stated that the name of dead body was Amit Kumar Yadav in inquest report.

13. Prosecution Witness No. 6 Dharmendra Kumar is I.O.

In examination in chief he has stated that in the year 2023, I was posted as Sub-Inspector of Police at Phulparas Police Station. He

P.O.-Anil Kumar Ram,

District & Addl. Sessions Judge-III, Jhanjharpur

Sessions Trial 233 of 2024

State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors

P.S-Phulparas, FIR. No-495/2023

Judgment of conviction dated-03/07/2026

**IN THE COURT OF DISTRICT AND ADDITIONAL SESSIONS
JUDGE III, JHANJHARPUR**

has further stated that on 05.12.2023, I took over the charge of investigating Phulparas Police Station Case No. 495/2023 from Police Inspector Lalan Chaudhary and during the course of the investigation, I received Report-2 and recorded it in Paragraph 135 of the Case Diary. He has further stated that a report was submitted to the Court to obtain warrants against seven accused persons found to be involved in the case, which was recorded in Paragraph 138 of the Case Diary. He has further stated that subsequently, Report-3 was received from the Superintendent of Police, Madhubani, which was recorded in Paragraph 142 of the Case Diary and Warrants were obtained against the seven accused persons, the details of which were recorded in Paragraph 146 of the Case Diary. He has further stated that the post-mortem report of the deceased, Amit Kumar, was received, the details of which were recorded in Paragraph 178 of the Case Diary. He has further stated that the criminal antecedents of the arrested accused Kishori Yadav and the non-FIR accused Prakash Mishra, were obtained from Rahika and Ghoghardiha Police Stations, the details of which were recorded in Paragraph 180 of the Case Diary. He has further stated that upon the completion of the investigation, Charge Sheet No. 81/2024, dated 28.01.2024, was submitted against the accused Kishori Yadav and Prakash Mishra alias Laden under Sections 302, 120B/34 of the Indian Penal Code and this submission was recorded in Paragraph -183 of the Case Diary, while the investigation against the remaining accused persons was continued. He has further stated that the Charge Sheet was prepared by me, which bears my signature and which I identify. This is marked as Exhibit P-3. It has been forwarded by the Station House Officer of Phulparas, Lalan Chaudhary and bears his initial which I identify and is marked as Exhibit P-4.

In cross examination in para 8 he has stated that there was already evidence of this incident in case diary. In para 9 he has stated that chargesheet has been submitted in court by him. In para 13 he has stated that there is evidence against Prakash Mishra in para 92, 103, 127, 135 and 143 in case diary.

P.O.-Anil Kumar Ram,

District & Addl. Sessions Judge-III, Jhanjharpur

Sessions Trial 233 of 2024

State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors

P.S-Phulparas, FIR. No-495/2023

Judgment of conviction dated-03/07/2026

Page 9 of 23 pages

14. Prosecution Witness No. 7 Sita Devi is Informant. In examination in chief she stated that I am the Informant in this case and this case was registered on my written application. She has further stated that the incident occurred approximately two and a half years ago, around 7:30 in the morning. She has further stated that five persons Om Prakash Yadav, Anish, Kishori and Jha Ji (alias Mishra) forcibly took my son Amit Kumar from our home. She has further stated that they took him away seated on two motorcycles. She has further stated that the morning following the incident at 6:00 AM, I went to Om Prakash Yadav's house, but they assaulted me and drove me away. She has further stated that I did not see what transpired thereafter and upon hearing an outcry, I proceeded to the canal, where I found a dead body. He has further stated that body was that of my son Amit Kumar. The name "Amit Kumar" was found Tattoo on the arm of the deceased. She has further stated that I observed that both of the body's legs and its head had been severed and upon seeing the body, I fainted. She has further stated that upon receiving the information, the police administration arrived and sent the body to Madhubani for a post-mortem examination. She has further stated that after the post-mortem, upon receiving the body back, we performed the cremation rites and submitted a written application to the police station, having it read out to me and having fully understood its contents, I affixed my thumb impression to it, which I hereby identify. She claimed to identify the accused after seeing them.

In cross examination in para 6 she has stated that she had called her son by mobile and he had picked up once and after then his phone got switched off. In para 7 she has stated that she had become unconscious to see that dead body.

15. Prosecution Witness No. 8 is Kanchan Kumari. In examination in chief she has stated that the incident occurred approximately two and a half years ago. She has further stated that it was 7:00 PM and Om Prakash Yadav, Kishori Yadav, Anish Kumar, Amlesh Kumar, Birendra Yadav, and Prakash Mishra all of whom are the accused in this case arrived at my

P.O.-Anil Kumar Ram,

District & Addl. Sessions Judge-III, Jhanjharpur

Sessions Trial 233 of 2024

State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors

P.S-Phulparas, FIR. No-495/2023

Judgment of conviction dated-03/07/2026

home on two motorcycles. She has further stated that they asked my husband Amit Yadav to accompany them to a feast. She has further stated that My husband initially refused to go but Om Prakash insisted, saying, "The food is ready, come and eat and I will bring you back myself." She has further stated that although I tried to dissuade him, the accused persons nevertheless took my husband away under the pretext of attending the feast and when I called him at 8:00 PM, he told me that he was currently eating and shortly thereafter, my husband Amit Kumar's mobile phone was switched off. She has further stated that my mother in law, Sita Devi, went to Om Prakash's house, where he claimed, "I have already sent your son home." She has further stated that subsequently, he verbally abused my mother-in-law, shoved her and forced her out of the house. She has further stated that the following day at 11:00 AM, a body was found lying near a canal situated between Bahuarwa and Dhanaujand and I went to the spot and found that the body was that of my husband Amit Kumar. She has further stated that his head and legs had been severed. She has further stated that we brought the body home and subsequently staged a road blockade near the Phulparas Sub-division office and upon the arrival of the police, my husband's body was sent for a post-mortem examination and after the post-mortem, the body was handed over to the family and the final rites were performed. She claimed to identify the accused after seeing them.

In cross examiantion in para 7 she has stated that accused had taken her husband on 10-10-2023. In para 8 she has stated that the name of accused had been told by her husband and accused usually visit to her house. In para 9 she has stated that dead body of her husband was lying near canal in a shack. In para 10 she has stated that she had seen her husband at the time of going for feast and after then she saw the dead body of her husband at canal. In para 14 she has stated that feast was oragnized by Omprakash at Nawtol. In para 15 she has stated that she had talked to Amit at 08:00 P.M.

P.O.-Anil Kumar Ram,

District & Addl. Sessions Judge-III, Jhanjharpur

Sessions Trial 233 of 2024

State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors

P.S-Phulparas, FIR. No-495/2023

Judgment of conviction dated-03/07/2026

16. Prosecution Witness No. 9 is Sonu Kumar. In examination in chief he has stated that the incident occurred on October 10, 2023, at approximately 11:00 AM. He has further stated that Om Yadav, Anish Yadav alias Amish Yadav, Amlesh Kumar, Kishori Yadav and Virendra Kumar all of them came to Amit's residence and suggested that they should go out to attend a feast. He has further stated that when Amit's mother Sita Devi objected, Om Yadav assured her that they would return after eating. He has further stated that Om and Anish were seated on a motorcycle; they picked Amit up and took him along, while the remaining accused rode on a separate motorcycle. He has further stated that when Amit failed to return from the feast by 8:00 or 9:00 PM, his wife, Kanchan Kumari, attempted to call him, however, Amit's mobile phone was switched off. He has further stated that the following morning, Amit's mother, Sita Devi and Akshay Kumar went to Om Yadav's house to inquire about Amit's whereabouts, however Om Yadav verbally abused them and drove them away. He has further stated that later on same day, between 10:00 and 11:00 AM, a phone call was received informing us that a dead body was lying near Dhanoja Bahorawa and consequently, a group of four or five of us went to the canal area, where we discovered a corpse with its head and legs severed and the deceased had a Tattoo on his wrist and upon observing this, we were able to identify the body as that of Amit. He has further stated that we retrieved the body and placed it in front of the Sub-Divisional Office in Phulparas, where the police subsequently arrived. The police prepared a Panchnama (inquest report) for the body and sent it to Madhubani for a post-mortem examination. He has further stated that after the post-mortem was completed and the body was handed over to us, we performed the cremation rites. He has further stated that Prakash Mishra and Kishori Yadav are currently in jail, I will identify them upon seeing them.

In cross examination in para 12 he has stated that after seeing the dead body of Amit he knew that he had dead.

P.O.-Anil Kumar Ram,

District & Addl. Sessions Judge-III, Jhanjharpur

Sessions Trial 233 of 2024

State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors

P.S-Phulparas, FIR. No-495/2023

Judgment of conviction dated-03/07/2026

17. Prosecution Witness No. 10 is Arjun Yadav. In examianation in chief he has stated that the incident occurred on October 10, 2023, sometime between 4:00 PM and 5:00 PM. He has further stated that I was at Amit Kumar's house and five men Om Prakash Yadav, Kishor Yadav, Anish Kumar, Amlesh Kumar and Birendra Yadav arrived on two motorcycles and Anish Kumar asked Amit Kumar to accompany them to attend a feast. He has further stated that when my sister tried to dissuade Amit Kumar from going to the feast, Om Prakash interjected saying, "Let Amit go to the feast, we will drop him back home on the motorcycle after the meal." He has further stated that subsequently, the aforementioned accused took Amit Kumar away on their motorcycles to attend the feast and after then , having finished my dinner, I returned to my own home by 8:00 PM and by that time, Amit Kumar had not yet returned to his house. He has further stated that I went to check on his home and later, in the morning, I received some information and upon receiving this information in the morning, I went to Barhi village, where I found the area in a state of chaos, everyone was rushing toward the canal. He has further stated that when I reached the canal, I found Amit Kumar's body, his head and legs had been severed, and the remains were stuffed inside a sack. He has further stated that when the body was retrieved from the water, it was observed that a Tattoo bearing the name "Amit Kumar" was inscribed on the arm, the body was identified based on this Tattoo. The corpse was taken to the police station and subsequently sent to the Sadar Hospital in Madhubani for a post-mortem examination. Following the post-mortem, the police handed the body over to the deceased's family members, who then performed the last rites. He has further stated that Prakash Mishra and Kishori Yadav are currently in jail, I will identify them upon seeing them.

In corss exmination in para 11 he has stated that when five persons had come from Motorcycle, I and my sister was present totalling seven persons. In para 13 he has stated that after 08:00 P.M. her sister has called on his phone once and asked further Amit has come or not?

P.O.-Anil Kumar Ram,

District & Addl. Sessions Judge-III, Jhanjharpur

Sessions Trial 233 of 2024

State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors

P.S-Phulparas, FIR. No-495/2023

Judgment of conviction dated-03/07/2026

Argument advanced by the sides

18. Shri D.S.Jha Ld.A.P.P. argued that the prosecution has proved its case beyond the shadow of all reasonable doubts with the help of prosecution witnesses and documentary evidences. Ld. A.P.P. further argued that the prosecution has been able to prove the reason behind the occurrence, manner of occurrence and place of occurrence. He has further submitted that nine witnesses have supported the prosecution case. P.W 7 Sita Devi is informant of this case and has fully supported the prosecution case and has identified her thumb impression on written report. P.W.1 Dr. Ravi Prakash has proved the anti-mortem injuries and has also proved the Post-mortem report and his signature has been marked as Exhibit-P-1 and has also proved the signature of Dr. Amrendra Kumar Amar on postmortem report which has been marked as Ext. P-2. The IO namely Dharmendra Kumar examined as P.W6 has also supported the prosecution case and has proved chargesheet and forwarding which has been marked as Exhibit-P-3 and P-4. Ld. A.P.P. further submitted that there is no any contradiction amongst the prosecution witnesses and if any, is of very minor nature. Hence, he prayed to hold the accused persons guilty.

19. Per contra, Learned counsel for defence submitted that the testimony of the witnesses are contradictory. He has further submitted that in this case no independent witness have supported the prosecution case. He has further stated that there is no eye witness of alleged occurrence. It has also been submitted that there is nothing on record which could prove the proximity of the accused persons even remotely in the alleged offence. It has also been argued that the prosecution has miserably failed to prove the charges leveled against the accused persons beyond all reasonable doubts and hence the accused persons deserve to be given benefit of doubt and are entitled for acquittal in this case.

P.O.-Anil Kumar Ram,

District & Addl. Sessions Judge-III, Jhanjharpur

Sessions Trial 233 of 2024

State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors

P.S-Phulparas, FIR. No-495/2023

Judgment of conviction dated-03/07/2026

Point for determination

20. Now the main point for determination before the court is whether the prosecution has been able to prove the charges U/s-302, 120(B)/34 of IPC leveled against the accused persons beyond all reasonable doubts or not?

Findings

21. Before appreciating the merits of this case, it becomes imperative to understand the criminal law involved in this case:- Section 302 of IPC is major charge in this case.

Section 300 of the IPC defines Murder- Except in the cases hereinafter excepted, culpable homicide is murder,

(a) if the act by which the death is caused is done with the intention of causing death, or-

(b) If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or-

(c) If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or-

(d) If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Section 302 of the IPC defines punishment for murder- (1) Whoever commits murder shall be punished with death, or [imprisonment for life], and shall also be liable to fine.

(2) When a group of five or more persons acting in concert commits murder on the ground of race, caste or community, sex, place of birth, language, personal belief or any other similar ground each member of such group shall be punished with death or with imprisonment for life, and shall also be liable to fine.

Ingredients of Criminal Conspiracy :-

1. There should be an agreement between two or more persons who

P.O.-Anil Kumar Ram,

District & Addl. Sessions Judge-III, Jhanjharpur

Sessions Trial 233 of 2024

State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors

P.S-Phulparas, FIR. No-495/2023

Judgment of conviction dated-03/07/2026

**IN THE COURT OF DISTRICT AND ADDITIONAL SESSIONS
JUDGE III, JHANJHARPUR**

are alleged to conspire;

2. The agreement should be to do or cause to be done;

i. an illegal act, or

ii. an act which may not itself be illegal by illegal means.

Punishment of criminal conspiracy 120(B)- 1. Whoever is a party to a criminal conspiracy to commit an offence punishable with death, (imprisonment for life) or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

2. Whoever is a party to a criminal conspiracy other than a criminal to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.)

Ingredients of Section 34 of IPC- To attract the application of section 34 of BNS the following three conditions must exist, viz.,

1. A criminal act must be done by several persons;

2. There must be a common intention of all to commit that criminal act;

3. There must be participation of all in the commission of the offence in furtherance of that common intention.

Decision and reasons for the decision

22. It is settled proposition of criminal law that prosecution has to prove its case on the judicial file beyond all reasonable doubts and any such doubt in the prosecution story entitles the accused to acquittal. It is cardinal principle of jurisprudence that the criminal law can never work on mere conjecture and surmises or suspicion. This is a principle of jurisprudence that the prosecution has to establish its case on its own legs and it doesn't gain any strength from the weakness of the defence. The prosecution has to prove each and every ingredient of the offence against the accused persons and this general burden never shifts, unless provided by the statute as such. The prosecution case may be true but the criminal jurisprudence says that the prosecution must be true and there is long mental gap between 'may be true'

P.O.-Anil Kumar Ram,

District & Addl. Sessions Judge-III, Jhanjharpur

Sessions Trial 233 of 2024

State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors

P.S-Phulparas, FIR. No-495/2023

Judgment of conviction dated-03/07/2026

**IN THE COURT OF DISTRICT AND ADDITIONAL SESSIONS
JUDGE III, JHANJIHARPUR**

and 'must be true'. The prosecution has to prove the guilt of the accused beyond all reasonable doubts by adducing positive cogent evidence and not by mere raising suspicion on his conduct as such. It is a settled principle of criminal jurisprudence that the burden of proof lies on the prosecution and it has to prove a charge beyond all reasonable doubts. The presumption of innocence and the right to fair trial are twin safeguards available to the accused under our criminal justice system. The prosecution has to prove its case by leading evidence in conjunction with the chain of events as are stated to have occurred and these evidence must point irresistibly to the conclusion that the accused is guilty. The seriousness of the offence also requires much stricter proof.

23. Now, coming to the instant case, in this case charge against both accused persons namely Kishori Yadav @ Kishori Kumar Yadav and Prakash Misra have been framed under section 302, 120(B)/34 of IPC. According to FIR and Charge, there is allegation that on 10.10.2023 around 07:00 PM Amit Kumar(son of informant) was at home. At that time, Om Prakash Yadav, Amish Kumar, Amlesh Kumar, Kishori Yadav and Birendra Kumar riding on two motorcycles reached there. Om Prakash Yadav seated Amit Kumar on his motorcycle. On forbade, Om Prakash told that after having feast, they will return. Last communication was made with Amit Kumar on his mobile No. 8210969416 at 08:00 PM and after that his mobile was found switched off. When he did not come back in the night, informant along with his family members went to the house of Om Prakash on 11.10.2023 around 04:00 AM. and when they enquired about Amit Kumar, he started shouting and around 11:00 AM, it came to notice that a dead body was found near Dhanoja-Bahuarwa Canal. When the informant party reached there, they found a dead body with head and leg cut off sealed in a bag floating in the water. The dead body was taken out of the water and the same was identified as Amit Kumar. It is alleged that above named accused along with Dinesh Yadav and 04-05 unknown persons murdered the son of informant.

P.O.-Anil Kumar Ram,

District & Addl. Sessions Judge-III, Jhanjharpur

Sessions Trial 233 of 2024

State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors

P.S-Phulparas, FIR. No-495/2023

Judgment of conviction dated-03/07/2026

P.W 7 Sita Devi is informant of this case and has fully supported the prosecution case stating that five persons Om Prakash Yadav, Anish, Kishori and Jha Ji (alias Mishra) forcibly took my son Amit Kumar from our home. She has further stated that they took him away seated on two motorcycles and the morning following the incident, at 6:00 AM, I went to Om Prakash Yadav's house, but they assaulted me and drove me away. She has further stated that I did not see what transpired thereafter and upon hearing an outcry, I proceeded to the canal, where I found a dead body. He has further stated that body was that of my son Amit Kumar. The name "Amit Kumar" was found Tattoo on the arm of the deceased. She has further stated that I observed that both of the body's legs and its head had been severed and upon seeing the body, I fainted. She has further stated that upon receiving the information, the police administration arrived and sent the body to Madhubani for a post-mortem examination. She has further stated that after the post-mortem, upon receiving the body back, we performed the cremation rites and submitted a written application to the police station, having it read out to me and having fully understood its contents, I affixed my thumb impression to it, which I identify. She claimed to identify the accused after seeing them. Thus PW7 who is witness of this case has fully supported the prosecution case and is a reliable witness of this case.

PW8 Kanchan Kumari who is wife of deceased has also supported the factum of alleged occurrence and has stated that the incident occurred approximately two and a half years ago. She has further stated that it was 7:00 PM and Om Prakash Yadav, Kishori Yadav, Anish Kumar, Amlesh Kumar, Birendra Yadav, and Prakash Mishra all of whom are the accused in this case arrived at my home on two motorcycles. She has further stated that they asked my husband Amit Yadav to accompany them to a feast. She has further stated that my husband initially refused to go but Om Prakash insisted, saying, "The food is ready, come and eat and I will bring you back myself." She has further stated that although I tried to dissuade

P.O.-Anil Kumar Ram,

District & Addl. Sessions Judge-III, Jhanjharpur

Sessions Trial 233 of 2024

State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors

P.S-Phulparas, FIR. No-495/2023

Judgment of conviction dated-03/07/2026

**IN THE COURT OF DISTRICT AND ADDITIONAL SESSIONS
JUDGE III, JHANJIHARPUR**

him, the accused persons nevertheless took my husband away under the pretext of attending the feast and when I called him at 8:00 PM, he told me that he was currently eating and shortly thereafter, my husband Amit Kumar's mobile phone was switched off. She has further stated that my mother in law, Sita Devi, went to Om Prakash's house, where he claimed, "I have already sent your son home." She has further stated that subsequently, he verbally abused my mother-in-law, shoved her and forced her out of the house. She has further stated that the following day at 11:00 AM, a body was found lying near a canal situated between Bahuarwa and Dhanaujand and I went to the spot and found that the body was that of my husband Amit Kumar. She claimed to identify the accused after seeing them.

PW10 Arjun Yadav has also supported the factum of alleged occurrence in his examination in chief. He has stated that the incident occurred on October 10, 2023, sometime between 4:00 PM and 5:00 PM. He has further stated that I was at Amit Kumar's house and five men Om Prakash Yadav, Kishor Yadav, Anish Kumar, Amlesh Kumar and Birendra Yadav arrived on two motorcycles and Anish Kumar asked Amit Kumar to accompany them to attend a feast. He has further stated that when my sister tried to dissuade Amit Kumar from going to the feast, Om Prakash intervened saying, "Let Amit go to the feast, we will drop him back home on the motorcycle after the meal." He has further stated that subsequently, the aforementioned accused took Amit Kumar away on their motorcycles to attend the feast and after then, having finished my dinner, I returned to my own home by 8:00 PM and by that time, Amit Kumar had not yet returned to his house. He has further stated that I went to check on his home and later, in the morning, I received some information and upon receiving this information in the morning, I went to Barhi village, where I found the area in a state of chaos, everyone was rushing toward the canal. He has further stated that when I reached the canal, I found Amit Kumar's body, his head and legs had been severed, and the remains were stuffed inside a sack. He has further stated that when the body was retrieved from the water, it was observed that a Tattoo bearing the name "Amit

P.O.-Anil Kumar Ram,

District & Addl. Sessions Judge-III, Jhanjharpur

Sessions Trial 233 of 2024

State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors

P.S-Phulparas, FIR. No-495/2023

Judgment of conviction dated-03/07/2026

Kumar" was inscribed on the arm, the body was identified based on this Tattoo. The corpse was taken to the police station and subsequently sent to the Sadar Hospital in Madhubani for a post-mortem examination. He has further stated that Prakash Mishra and Kishori Yadav are currently in jail, I will identify them upon seeing them.

P.W.2 Kameshwar Yadav, P.W.3 Upendra Prasad Yadav, P.W.4 Santosh Kumar Yadav and P.W.9 Sonu Kumar have also supported the factum of alleged occurrence.

P.W.5 Dr. Ravi Prakash has proved the anti-mortem injuries and has also proved the Post-mortem report of deceased Amit Kumar Yadav and has identified his signature on postmortem report which has been marked as Exhbit P-1 and has also identified the signature of Dr. Amrendra Kumar Amar on postmortem report which has been marked as exhibit P-2. PW5 has found following injury on body of deceased Amit Kumar Yadav:-

External injury:-

There was no neck to head present in body.

Multiple sharp cutting present in neck region.

There was not present both below knee joint.

Multiple sharp cutting over both knee joints.

On dissection:-

-All viscera pale namely heart, lungs, liver, spleen and both kidney.

- Stomach containing semi digested food materials and gases.

-Intestine containing faecal matter and gases.

- Urinary bladder empty.

Viscera preserved for forensic lab test namely heart, lungs, liver, spleen, kidney, blood, stomach, Intestine,

According to PW5 Dr, Ravi Prakash, Cause of death reserved till the report of forensic science lab comes.

The IO namely Dharmendra Kumar examined as P.W6 has also supported the prosecution case and has proved chargesheet and forwarding which has been marked as Exhibit-P-3 and P-4 respectively. He has further stated that upon the completion of the investigation, Charge Sheet No. 81/2024, dated 28.01.2024, was submitted against the accused Kishori

P.O.-Anil Kumar Ram,

District & Addl. Sessions Judge-III, Jhanjharpur

Sessions Trial 233 of 2024

State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors

P.S-Phulparas, FIR. No-495/2023

Judgment of conviction dated-03/07/2026

**IN THE COURT OF DISTRICT AND ADDITIONAL SESSIONS
JUDGE III, JHANJHARPUR**

Yadav and Praksh Mishra under Sections 302,120(B)/34 of IPC and supplementary investigation regarding the remaining accused was kept open.

24. Thus after going through the facts and circumstances, evidence available on record I find that this case is based on the legal factum last seen theory. The last seen theory is a legal principle in circumstantial evidence establishing that if a person was the last individual seen alive with a victim and the time gap before the death is too short for anyone else to have intervened, the accused is presumed to be responsible. This doctrine serves as a vital tool in cases lacking direct eyewitnesses or forensic evidence, but it operates under strict judicial limitations:

The time Gap Test: The duration between when the accused and victim were last seen together and the victim's death must be so small that the possibility of any third person committing the crime is highly improbable.

Corroboration Requirement: The Hon'ble Supreme Court and legal systems globally emphasize that this theory alone cannot result in a murder conviction. It must be supported by a complete chain of additional circumstances, such as motive, recovery of a murder weapon, or the accused, fleeing the scene.

Burden of Proof: While it shifts the burden onto the accused to explain their whereabouts (often under statutes like Section 106 of the Indian Evidence Act), the prosecution retains the ultimate burden of proving guilt beyond a reasonable doubt. If there is an unexplained, long, or uncertain time gap, the theory is discarded.

In the present case accused persons facing trial along with other accused came at the house of deceased Amit Kumar Yadav and taken away him on a motorcycle having feast at the house of Om Prakash Yadav with promise by accused to return him at his home after the feast. The taking away of Amit Kumar Yadav happened on 10.10.2023 at around 7 PM and last communication was made with Amit Kumar Yadav on his mobile No. 8210969416 by his wife examined as PW8 namely Kanchan Kumari at 8PM and after then his mobile was found switched off. On further perusal of entire evidence, I find that PW7 Sita Devi, PW8 Kanchan Kumari and PW10 Arjun Yadav have

P.O.-Anil Kumar Ram,

District & Addl. Sessions Judge-III, Jhanjharpur

Sessions Trial 233 of 2024

State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors

P.S-Phulparas, FIR. No-495/2023

Judgment of conviction dated-03/07/2026

**IN THE COURT OF DISTRICT AND ADDITIONAL SESSIONS
JUDGE III, JHANJIHARPUR**

specifically stated that present accused Kishori Yadav @ Kishori Kumar Yadav and Prakash Mishra taken away Amit Kumar Yadav from their house at 7 PM and the mobile of deceased Amit Kumar Yadav switched off at about 8 PM. The witnesses has further stated that when they enquired from OM Prakash Yadav, he drove away them and abused. On further perusal, I find that dead body of Amit Kumar Yadav was found about 11 AM with head and leg cut off sealed in a bag floating in the water near a canal situated between Bahuarwa and Dhanaujand and identified by his Tattoo. Thus deceased Amit Kumar Yadav was lastly seen with the accused persons namely Kishori Yadav and Prakash Mishra and they are presumed to have special knowledge of how they parted ways U/s 106 of Indian Evidence Act, when any fact is especially within the knowledge of a person the burden of proving that fact is on them. In this case while examining the accused persons U/s 313 of Cr.P.C, the accused persons when evidence of witnesses was placed before them, they have not explained any circumstances that they were not involved in this brutal commission of murder except the general reply that evidence of witnesses are false and they are innocent. The defence has also not produced any oral or documentary evidence in this case to prove their innocence. Thus from above facts it is crystal clear that accused taken away the deceased Amit Kumar Yadav on motorcycle from his house on 10.10.2023 at 7 PM and his phone got switched off at 8 PM and his dead body was found in a canal on the following morning at about 11 AM and thus the time gap between the deceased been last seen with accused persons and his death is in a critical link in the chain of circumstantial evidence and the possibility of any other person committing the crime appears impossible.

25. Thus after going through the facts and circumstances, evidence available on record and after hearing the arguments advanced by the rival parties and in the light of discussion made above, I find that the accused Kishori Yadav @ Kishori Kumar Yadav and Prakash Mishra @ Laden with criminal conspiracy and in common intention committed murder of deceased Amit Kumar Yadav and on the point of charge U/S 302,120(B)/34 of IPC there are sufficient evidence to prove murder and criminal conspiracy with common intention. In reference to prove charge U/S 302,120(B)/34 of IPC, Para- 1,2,4,8,9 of PW2, para-1,2,7,8 of PW 3, para-1,7 of PW 4, Para- 1, 6,7, of PW 5, para- 1,2,

P.O.-Anil Kumar Ram,

District & Addl. Sessions Judge-III, Jhanjharpur

Sessions Trial 233 of 2024

State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors

P.S-Phulparas, FIR. No-495/2023

Judgment of conviction dated-03/07/2026

IN THE COURT OF DISTRICT AND ADDITIONAL SESSIONS JUDGE III, JHANJHARPUR	
3,4,8,9,13 of PW6, para- 1,2,6,7 of PW7, para- 1,2,7,8,9,10,14,15 of PW8, Para- 1,2,3,4,12 of PW9, Para- 1,2,3,4,11,13 of PW10 can be referred from their respective depositions. Exhibits mentioned above and proved by prosecution as Ext. P-1, P-2, P-3 and P-4 also prove charge U/S 302,120(B)/34 of IPC .Here in the present case after keen and careful scrutinization of the evidence of the witnesses coupled with the exhibits produced on behalf of prosecution , I find that accused Kishori Yadav @ Kishori Kumar Yadav and Prakash Mishra @ Laden have committed the offence of murder and with criminal conspiracy and with common intention . 26. Further I find that prosecution has well established by cogent, consisting and clinching evidence of P.W.-2 Kameshwar Yadav, P.W.-3 Upendra Prasad Yadav, P.W.-4 Santosh Kumar Yadav, P.W.-5 Dr. Ravi Prakash, P.W.-6 Dharmendra Kumar, P.W.-7 Sita Devi, P.W.-8 Kanchan Kumari, P.W.-9 Sonu Kumar and P.W.-10 Arjun Yadav have been successfully proved its case against the accused namely (1) Kishori Yadav @ Kishori Kumar Yadav and (2) Prakash Mishra @ Laden for the charge U/S 302,120(B)/34 of IPC and convict them accordingly. Both accused namely (1) Kishori Yadav @ Kishori Kumar Yadav and (2) Prakash Mishra @ Laden are already in custody. Put up the record for hearing on the question of sentence on 04.07.2026.	
Judgment pronounced by me and explained in Hindi in open court Anil Kumar Ram Addl. Sessions Judge III Jhanjharpur Date : 03.07.2026	Dictated and corrected by me Anil Kumar Ram Addl. Sessions Judge III, Jhanjharpur Date : 03.07.2026
P.O.-Anil Kumar Ram, District & Addl. Sessions Judge-III, Jhanjharpur Sessions Trial 233 of 2024 State of Bihar (through Sita Devi) Vrs Kishori Yadav @ Kishori Kumar Yadav & Ors P.S-Phulparas, FIR. No-495/2023 Judgment of conviction dated-03/07/2026	