

DISTRICT- Madhubani (BIHAR)	
Present: Anil Kumar Ram District and Additional Sessions Judge-III Civil Court, Jhanjharpur	
[Date of sentence: 04.07.2026]	
[Sessions Trial Case No. 233/2024] (Phulparas PS Case No. 495/2023) U/s 302,120(B)/34 of IPC	
INFORMANT	State of Bihar Through: Sita Devi
REPRESENTED BY	Ld. Addl. P.P. Sri Deo Shankar Jha
Accused	(A1) Kishori Yadav @ Kishori Kumar Yadav, aged about 25 years, Son of Hari Dev Yadav, Resident of Village- Sapta, 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

Order on the Point of Sentence

04.07.2026

Present: Ld. Addl. Public Prosecutor -Sri. Deo Shankar Jha
Ld. Advocate- Sri Vijay Kumar Prasad and Sri Ashok Kumar Jha
along with convicts produced from J.C.

Hearing on the point of sentence

1. The learned counsel of the convicts submitted that this was the third offence by the convict namely Kishori Yadav @ Kishori Kumar Yadav and first offence by Prakash Mishra @ Laden and has further submitted that both convicts had been in custody since from the remand and the same itself has been an enough punishment for them. It was further submitted that

they were not involved in any other criminal activity and they have been falsely implicated in this case. The learned counsel submitted that no factum of previous conviction was proved by the prosecution. He further submits that convicts Kishori Yadav @ Kishori Kumar Yadav and Prakash Mishra @ Laden are in young age and come from very poor socio economic background.

2. Per contra learned APP argued that the act of the convicts were unpardonable. He further submitted that all accused have conjointly committed a very serious crime against the son of informant . They have committed the murder of Amit Kumar Yadav. He has further stated that according to postmortem report there was no neck to head present in body, multiple sharp cutting present in neck region, there was not present both below knee joint and multiple sharp cutting over both knee joints. He further argued that keeping in view the nature of the offence and circumstances under which the offence of murder was committed and hence stringent punishment be meted out to them.
3. **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.

Ingredients of Criminal Conspiracy :-

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

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 and Others

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

Sentence of conviction dated 04/07/2026

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.

4. Before awarding the sentence to the convict it would be appropriate to have a glance at the sentencing policy precedents.

5. In case titled Bikram Dorjee vs. State of West Bengal, AIR 2009 SC 2539 Hon'ble Supreme Court while discussing the law on quantum of sentence observed.

"After giving due consideration to the facts and circumstances of each case, for deciding just and appropriate sentence to be awarded an offence, the aggravating and mitigating factors and circumstances in which a crime has been committed, are to be delicately balanced on the basis of real relevant circumstances in a dispassionate manner by the Court. Such act of balancing is indeed a difficult task"

The object should be to protect the society and to deter the criminal in achieving the avowed object of law by imposing appropriate sentence. It is expected that the courts would operate the sentencing system so as to impose such sentence which reflects the conscience of the society and the sentencing process has to be stern where it should be.

Imposing of sentence without considering its effect on the social order in many cases may be in reality a futile exercise. Any liberal attitude by imposing meager sentence or taking too sympathetic view merely on account of lapse of time in respect of such offence will be result wise counter productive in the long run and against societal interest which needs to be cared for strengthen by string of deterrence inbuilt in the sentencing system.

The Court will be falling in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which the criminal and victim belongs.

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 and Others

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

Sentence of conviction dated 04/07/2026

The punishment to be awarded for a crime must not be irrelevant but it should confirm to and be consistent with the atrocity and brutality with which the crime has been perpetrated, the enormity of the crime warranting public abhorrence and it should "respond to the society's cry for justice against the criminal"

6. It has been observed by the Hon'ble Apex court in the matter of **Dhanjoy Chatterjee vs. State of West Bengal (1994) 2 SCC 220: 1994 SCC (Cri) 358** that:

In our opinion, the measure of punishment in a given case must depend upon the atrocity of the crime; the conduct of the criminal and the defenceless and unprotected state of the victim. Imposition of appropriate punishment is the manner in which the courts respond to the society's cry for justice against criminals. Justice demands that courts should impose punishment fitting to the crime so that the courts reflect public abhorrence of the crime. The courts must not only keep in view the rights of the criminal but also the rights of the victim of crime and the society at large while considering imposition of appropriate punishment.

7. It is settled law that the penalty to be imposed has to commensurate with the gravity of the offence. The cardinal principle of sentencing policy is that the sentence imposed on an offender should reflect the crime he has committed and it should be proportionate to the gravity of the offence. Justice demands that courts should impose punishment befitting the crime so that courts reflect public abhorrence of the crime. The court must not only keep in view that rights of the victim of the crime but the society at large while considering the imposition of appropriate punishment. The court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the society to which both the criminal and the victim belong. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of accused, the nature of weapons used and all other

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 and Others

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

Sentence of conviction dated 04/07/2026

attending circumstances are relevant facts which would enter into the area of consideration.

8. After giving a thoughtful consideration to aggravating and mitigating circumstances of the case, crime test, criminal test, rarest of rare test and the submissions made by the rival sides and on perusal of record, this court is of considered opinion that mitigating circumstances outweigh aggravating circumstance. The convicts are from very less educated and come from a very poor socio economic background and this case is bases on circumstantial evidence. The offence committed by them doesn't shock the conscience of the society.
9. Accordingly, Convicts namely **1. Kishori Yadav @ Kishori Kumar Yadav and 2. Prakash Mishra @ Laden** are awarded imprisonment for life and fine of Rs. 25000/- for offence under section 302 of IPC and imprisonment for life and fine of Rs. 25000/- for offence Under section 120(B)/34 of IPC. In case of default of payment of fine by convicts namely **1. Kishori Yadav @ Kishori Kumar Yadav and 2. Prakash Mishra @ Laden** shall undergo a further simple imprisonment for a period of three months. Both sentences will run concurrently. The period of detention already undergone by the convicts during the investigation and trial of the same case and before the date of such conviction, shall be set off against the term of imprisonment imposed on them and the liability of the convicts to undergo imprisonment shall be restricted to the remainder, of the term of imprisonment imposed on them.
10. Before parting of the order, this court is of the opinion that Kanchan Kumari wife of deceased Amit Kumar Yadav R/o Vill- Siswa Barhi, P.S Phulparas, District Madhubani is real victim of this case and entitled for compensation under section 357 A (3) of Cr.P.C as for the guidelines of the judgments viz., **Ankush Shivje Gaikward versus State of Maharastra, (2013) 6 SSC 770 and Suresh Versus State of Haryana (2015) 2 SSC 227 and according to the Bihar Victim compensation scheme 2014**, but convicts are not able to pay the sufficient compensation as they are not from a very sound financial

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 and Others

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

Sentence of conviction dated 04/07/2026

background. Hence the copy of judgment and the order of sentence be sent to the learned Secretary, D.L.S.A, Madhubani for consideration of awarding appropriate compensation to Kanchan Kumari in accordance with the law and rules framed thereunder.

11. The certified copy of judgement and order on sentence be given to the convicts free of cost whenever they apply for it. Xerox copy of judgement be also provided to the Learned Counsels of both the parties for their perusal at once and another be attached to their sentence warrants. Office is directed to send the copy of this judgement to the District Magistrate, Madhubani for information u/s 365 of Cr.P.C and necessary compliance in accordance with law. I order accordingly.

Pronounced by me in open court (Anil Kumar Ram) District and Additional Sessions Judge-III Jhanttharpur 04.07.2026	Written and corrected by me (Anil Kumar Ram) District and Additional Sessions Judge-III Jhanttharpur 04.07.2026
---	--