

|                                                                                                                                        |                                                                                                                                                |      |
|----------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|------|
| IN THE COURT OF DISTRICT & ADDITIONAL SESSIONS JUDGE-IV, SAHARSA                                                                       |                                                                                                                                                |      |
| Present:-       Avinash Kumar-I,<br>District & Additional Sessions Judge-IV, Saharsa                                                   |                                                                                                                                                |      |
| <u>Date of the Judgment:- 10.07.2026</u>                                                                                               |                                                                                                                                                |      |
| <u>Case No.- Sessions Trial Case No- 162 of 2005</u><br>(Arising out of Saurbazar P.S. Case No. 59 of 1999)<br>(U/s <b>395</b> of IPC) |                                                                                                                                                |      |
| INFORMANT                                                                                                                              | State of Bihar<br><br>(through the informant Santosh Kumar Bhagat s/o Bhutan Bhagat<br>R/o- Vill. Baijnathpur, P.S.- Saurbazar, Dist- Saharsa) |      |
| REPRESENTED BY                                                                                                                         | Ld. Additional Public Prosecutor                                                                                                               |      |
| <i>Versus</i>                                                                                                                          |                                                                                                                                                |      |
| ACCUSED PERSONS                                                                                                                        | Arvind Yadav @ Amrendra Yadav s/o Adhik Yadav<br>R/o- Vill. Dhadhi, P.S. Saurbazar, Dist. Saharsa                                              | (A1) |
| REPRESENTED BY                                                                                                                         | Rajendra Pathak Ld. Advocate                                                                                                                   |      |

Statement of History of Proceedings

|                                        |            |
|----------------------------------------|------------|
| Date of Offence                        | 14.04.1999 |
| Date of F.I.R.                         | 14.04.1999 |
| Date of filing of Charge-sheet         | 31.08.2004 |
| Date of Cognizance                     | 14.09.2004 |
| Date of commitment                     | 28.05.2005 |
| Date of initiation of Session          | 23.06.2005 |
| Date of Framing of Charges             | 08.01.2007 |
| Date of commencement of evidence       | 15.02.2007 |
| Date of closure of evidence            | 23.06.2026 |
| Statement under section 313 of Cr.P.C  | 03.07.2026 |
| Date on which the judgment is reserved | NIL        |
| Date of Judgment                       | 10.07.2026 |
| Date of the Sentencing Order, if any   | N.A*       |

ACCUSED DETAILS (Form-B)

| Rank of Accused | Name of the Accused           | Date of Arrest | Date of Release on Bail | Offences Charged with | Whether Acquitted or Convicted | Sentence Impose | Period of Detention Undergone during trial for purpose of section 482, Cr.P.C |
|-----------------|-------------------------------|----------------|-------------------------|-----------------------|--------------------------------|-----------------|-------------------------------------------------------------------------------|
| A-1             | Arvind Yadav @ Amrendra Yadav | 16.03.2004     | 15.04.2004              | u/s 395 of IPC        | Acquitted                      |                 | --                                                                            |

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution Witnesses

| RANK | NAME                           | NATURE OF EVIDENCE(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCHWITNESS, OTHER WITNESS) |
|------|--------------------------------|---------------------------------------------------------------------------------------------------------------|
| PW1  | Santosh Kumar @ Santosh Bhagat | Informant                                                                                                     |

DOCUMENTARY EVIDENCE

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution Exhibits

| Sr. No. | Exhibit Number | Description |
|---------|----------------|-------------|
| 1       | NIL            | NIL         |

Date of Judgement: 10.07.2026

Present: Sri Avinash Kumar-I

District & Addl. Sessions Judge IV,  
Saharsa.

**BRIEF FACTS**

1. The FIR bearing **Saurbazar P.S. case no. 59 of 1999** was registered on 14.04.1999, on the written report of **Santosh Kumar Bhagat S/O Bhutan Bhagat**, against three accused persons namely 1. Md. Keshar 2. Md. Naem and 3. Arvind Yadav @ Amrendra Yadav as u/s 395 of IPC.
2. The prosecution story in brief as per informant Santosh Kumar Bhagat is that on 13.04.1999, in the evening, when he was coming back to his house on his 407 Maxi, bearing no. BR19A9726, then certain miscreants blocked the road/passage and looted his stepney, battery and salary amount.
3. The investigation of the present case was done by I.O Sumit Kumar and charge-sheet no. 200/2004 dated 31.08.2004 u/s 395 of IPC against the said accused person was filed by I.O.
4. Cognizance was taken for the offence u/s 395 of IPC vide order dated 14.09.2004 against the accused persons namely 1. Md. Keshar 2. Md. Naem and 3. Arvind Yadav @ Amrendra Yadav.
5. After compliance of provisions of section 207 of the code of Criminal Procedure **charge was framed against 1. Md. Keshar 2. Md. Naem and 3. Arvind Yadav @ Amrendra Yadav on 08.01.2007** u/s 395 of IPC to which they denied and claimed to be tried.
6. During trial two accused persons namely Md. Keshar and Md. Naem died.
7. **The prosecution produced one 01 witnesses** to support its case after which the statement of the accused person namely Arvind Yadav @ Amrendra Yadav u/s 313 of Cr.P.C was recorded on 03.07.2026 in which he pleaded his innocence.

8. The point for determination in this case is that whether the prosecution has been able to bring home the guilt of the accused person beyond the shadow of all reasonable doubts for the offence punishable u/s 395 of IPC.

**EVIDENCE**

9. In order to prove its case, the prosecution produced 1 witnesses.

**EVIDENCE ADDUCED IN THIS CASE**

1) Evidence of prosecution:

i) Oral Evidence

a) PW-1:-Santosh Kumar @ Santosh Bhagat (Informant)

ii) Documentary Evidence

| Sr. No. | Exhibit Number | Description |
|---------|----------------|-------------|
| 01      | NIL            | NIL         |

2) Evidence of defence:-

No evidence, oral and documentary, has been adduced by the accused persons in their defence.

**APPRECIATION OF EVIDENCE**

10. अभियोजन साक्षी संख्या-1, संतोष भगत (सूचक)- अपने मुख्य परीक्षण मे कहते है कि मैं इस केस का सूचक हूं। घटना वर्ष 1999 की है। घटना जिरवा मे हुई थी। 10-12 बजे रात की घटना है। मैं गाड़ी लेकर किशुनगंज से धबौली आ रहा था तो गाड़ी को पाईप से घेरकर रोकवा दिया। मेरे पास जो हजार रुपया वह ले लिया, गाड़ी का बाजा, जैक, गाड़ी का स्केटमेंट आदि समान ले लिया। 10-15 लोग थे।

सभी मुदालह मुंह मे कपड़ा बांधे हुआ था। इसलिए नहीं पहचान पाया। नीचे लंगोटा पहना था। मुदालह सबका उम्र वही 35-40 वर्ष होगा।

न्यायालय मे उपस्थित मुदालह को मैं नही पहचानता हूँ।

वह अपने प्रति परीक्षण मे कहते है कि न्यायालय मे उपस्थित अभियुक्त को आज पहली बार देख रहा हूँ। आज से पहले इन्हे मैंने कही नही देखा। रात अंधेरी थी, मैं किसी को नहीं पहचान पाया था।

### **ARGUMENTS**

11. In the present matter Ld. APP submits that original copy of FIR is not available in the file of this case neither original copy of FIR is with main file of S.T. No. 430/2003, which has already been disposed off, therefore it seems that FIR is missing and IO of this case has not been examined and neither FIR has been exhibited.

Ld. APP further submits that informant of this case Santosh Kumar @ Santosh Bhagat **has failed to identify the sole accused person** namely Arvind Yadav @ Amrendra Yadav and therefore nothing remains for the prosecution to argue and bring the guilt of the accused person.

Ld. APP further submits that in the present **Session Trial FIR bearing no. Saurbazar 59, pertains to the year 1999** and therefore it is an old case, which needs to be disposed off expeditiously.

Ld. Defence counsel arguing on behalf of sole accused Arvind Yadav @ Amrendra Yadav submits that in the present matter, expect informant, no other witnesses has been examined by the prosecution in last 20 years since the trial of this has commenced in the year 2005.

Ld. Defence counsel further submits that in the present case **neither the FIR has been exhibited nor the place of occurrence has** been established. He further submits that it is a **case of no evidence** because **no TIP** was conducted by the police in this case and the single witness i.e. informant has not identify the accused during his evidence in the court. He further submits that even IO of this case has not been examined and the prosecution has miserably failed to establish any case against his client and his client Arvind yadav @ Amrendra Yadav has falsely been implicated by the prosecution and therefore needs to be acquitted from all the charge labelled against him.

### **FINDINGS**

12. This court finds that the present session trial is arising out of **Saurbazar P.S. case no. 59/1999**, in which supplementary charge-sheet no. 200/2004 dated 31.08.2004 was filed against three accused persons namely 1. Md. Keshar, 2. Md. Naem and 3. Arvind Yadav @ Amrendra

Yadav, on the basis of which Ld. JM 1<sup>st</sup> class took the cognizance against the above mentioned accused persons u/s 395 of IPC vide its order dated 14.09.2004, after which the case was committed to the court of session for trial.

In the present session trial the charge was framed on 08.01.2007 against accuse 1. Md. Keshar, 2. Md. Naem and 3. Arvind Yadav @ Amrendra Yadav.

On perusal of record, it shows that accuse **Md. Keshar died in the year 2012**, which is reflected in the order dated 27.03.2012 and therefore he was deleted from the array of accused persons. After then another accused **Md. Naem died in the year 2025** and was deleted from the array of accuse vide order dated 10.02.2025 by Ld. predecessor of this court. Thereafter the sole accuse Arvind Yadav @ Amrendra Yadav faced the trial.

It is very painful for this court to mention here that in the present session trial, the FIR is of the year 1999 and the trial started in the year 2005 and **in last 20 years the prosecution could produced only one witness** and that also in the year 2025 and **during the trial, 2 accused persons died facing the trauma of the trial** and sole accused Arvind Yadav @ Amrendra Yadav is still going through the painful trauma of this trial.

The pendency or continuation of such session trial for such a long period is a sad part of the system, where the accused person suffers coming to the court, wasting his valuable time, and his life. In the present session trial, in 20 years, the prosecution could produce only one witness, who also got hostile and could not identify the accused person.

The only witness namely Santosh Kumar @ Santosh Bhagat, who happens to be the informant of this case has failed to identify the sole accused Arvind Yadav @ Amrendra Yadav and has categorically stated that he does not identify the accused person present in the court. He has further stated that he is seeing the accused i.e. Arvind Yadav @ Amrendra Yadav for the first time and had not saw him before.

### CONCLUSION

13. Considering the evidence of informant, who fails to identify the accused Arvind Yadav @ Amrendra Yadav, this court finds that the prosecution has failed to prove its case and bring the guilt of the said accused person.

### ORDER

14. Therefore, it is ordered that the accused person namely Arvind Yadav @ Amrendra Yadav is acquitted from all the charges labelled against him.

Since the accused person Arvind Yadav @ Amrendra Yadav is already on bail therefore he is set free at once.

The present Session Trial, is arising out of Saurbazar P.S. case no. 59 dated 14.04.1999 u/s 395 of IPC, wherein after investigating, the charge-sheet was submitted on 31.08.2004 u/s 395 of IPC against 3 accused persons namely 1. Md. Keshar, 2. Md. Naem and 3. Arvind Yadav @ Amrendra Yadav, thereafter cognizance was taken on 14.09.2004 u/s 395 of IPC against the accused persons namely 1. Md. Keshar, 2. Md. Naem and 3. Arvind Yadav @ Amrendra Yadav, and after committment, the trial commenced on 23.06.2005 and thereafter charge was framed against all the above named accused persons u/s 395 of IPC on 08.01.2007.

The records reveals an **extremely disturbing state of affairs** though, the occurrence is of the year 1999, and charge was framed on 08.01.2007, the prosecution examined only one witness namely Santosh Kumar @ Santosh Bhagat (informant) on 23.05.2025 **almost 27 years after the alleged occurrence**. The said witness failed to identify the sole accused Arvind Yadav @ Amrendra yadav, who is facing the trial because other two accused Md. Kehsar and Md. Naem died during the trial.

An equally disturbing aspects of the present case is that 2 accused persons namely **1. Md. Keshar and 2. Md. Naem died during the pendency of the trial resulting into abetment of**

**proceedings against them.** Their demises before conclusion of the trial is a direct consequence of the **extraordinary delay** that has plagued the prosecution of the case.

**Criminal Trials are expected to culminate within a reasonable time** so that the guilt or innocence of the accused is determined while evidence is still fresh and parties are available to participate effectively in the proceedings.

The death of the above named 2 accused persons before the conclusion of trial is itself demonstrative of the prejudice occasioned by inordinate delay. This court is, therefore, constrained to observe that prosecution has failed in public duty to produce the case with due diligence.

The delay has not only infringed the fundamental right to a speedy trial, but has also defeated the very object of criminal adjudication by allowing the proceedings to continue for **nearly 3 decades** with little or no effective evidence being brought before the court. Such lapses warrant the imposing of exemplary cost so as to ensure institutional accountability and to deter recurrence of similar prosecutorial negligence.

It is important to note that despite repeated opportunities extended over several years, no other witnesses was produced by the prosecution and only one witness could be produced in the year 2025.

The chronology of the proceedings unmistakably demonstrates that the prosecution has failed to conduct the trial with the promptitude expected in a criminal prosecution.

The court had granted sufficient opportunities over a long period for production of witnesses. However, the prosecution remained unable to secure their attendance or produce any witnesses. Such conduct has resulted in unnecessary prolongation of the criminal proceedings for more than two decades.

The right to speedy trial is **an integral part of the guarantee of life and personal liberty** under article 21 of the Constitution of India.

The constitutional bench of Hon'ble Supreme court in **Hussain Arra Khatoon Vs. State of Bihar**, has held that the speedy trial is **a fundamental right** implicit in article 21 and emphasized that State cannot avoid its constitutional obligation by pleading administrative or financial constrains.

Likewise, the Hon'ble Supreme Court in **A.R. Antule Vs. R.S. Nayak AIR 1992 SC 1701**, authoritatively held that **right to speedy trial** extends to every stage of criminal proceedings including investigation, inquiry, trial, appeal, revision and re-trial and that courts are under constitutional obligation to protect its valuable right. The Hon'ble Supreme Court further held that where a delay is attributable to the prosecution or the State, then appropriate judicial remedy must follow.

Again in **P. Ramchandra Rao Vs. State of karnataka**, the Hon'ble Supreme Court while declining to prescribe rigid outer time for criminal trials, the Hon'ble Supreme Court reaffirmed that constitutional courts and trial courts are duty bound to prevent abuse of the process of the law and arising from inordinate and unexplained delay and must appropriate measures in the facts of each case.

The present case is a glaring example of prosecutorial lethargy. The **incident is nearly 27 years old**. The charge-sheet itself was filed after more than 5 years of occurrence. Thereafter, despite commencement of trial in the year 2005, the prosecution examined only one witness in the year 2025, even that witness did not identify the accused. The prosecution failed to produce any other witness despite repeated opportunities.

Such indifference not only causes grave prejudice to the accused but also undermines public confidence in the administration of the criminal justice and results in avoidable consumption of valuable judicial time.

The criminal justice system functions on the premises that the prosecution shall diligently present its evidence before the court and failure to perform this public duty cannot be permitted without consequences.

**Imposing of realistic costs in appropriate case serve the twine purposes** of ensuring the **accountability** and **discouraging avoidable delay** in criminal trials.

Considering the extraordinary and unexplained delay attributable to the prosecution, the repeated failure to produce the witnesses despite ample opportunities, the violation of the accused's fundamental right to a speedy trial under article 21 of the constitution and unnecessary wastage of precious judicial time, this court is of the opinion that the prosecution deserve to be saddled with cost.

Accordingly, it is ordered as follows:-

1. Cost of Rs. 50,000/-(Fifty thousand) is imposed upon the Prosecution/State through the office of **District Magistrate** and **S.P. Saharsa** to be deposited with **District Legal Service Authority, Saharsa**, within 30 days from the date of receipt of this order.
2. The District Magistrate **being the head of the district prosecution** and S.P. Saharsa, **shall examine the reason for extraordinary delay** in securing the presence of prosecution witnesses and **fix administrative responsibility** upon the officers/officials found responsible, in accordance with law.
3. Copy of this order be forwarded to **Home Secretary, Department of Home Affairs, Government of Bihar** and **Director General of Police, Bihar, Director of prosecution, Bihar, D.M. Saharsa** and **S.P., Saharsa** for information and appropriate administrative action so that such lapses are not repeated in future through E-mail as well as Nazarat.

FIX this matter after one month for compliance report of District Magistrate, Saharsa, i.e. 17.08.2026.

The judgment dictated, corrected,  
signed, dated and pronounced  
today in the open court by me.

Sd/-

Avinash Kumar-I  
District & Addl. Sessions Judge-IV  
Saharsa  
10.07.2026

Sd/-

Avinash Kumar-I  
District & Addl. Sessions Judge-IV  
Saharsa  
10.07.2026

