

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE,
GANGTOK DISTRICT, SIKKIM**

PRESENT: JABYANG DORJEE SHERPA

Decided on: 07.07.2026

General Register Case No. 27 of 2026

Filing No. 111/2026

CIS Registration number : 27/2026

CNR No : SKGT02-000111-2026.

COMPLAINANT	State of Sikkim
REPRESENTED BY	Learned Assistant Public Prosecutor, Ms. Pollin Rai
ACCUSED	Govind Basnett, Age-29 years, Son of Shiva Bahadur Basnett, Resident of Nepal, A/p 06th Mile, Tadong, Gangtok, Sikkim.
REPRESENTED BY	Ld. Asst. LADC Ms. Pema Dechen Bhutia.

Date of Offence	16.01.2026
Date of FIR	16.01.2026
Date of Charge-sheet	11.03.2026
Date of Framing of charge	21.04.2026
Date of commencement of evidence	07.05.2026
Date on which Judgment is reserved	07.07.2026
Date of the Judgment	07.07.2026
Date of the Sentencing Order, if any.	NA/Acquitted

J U D G M E N T

1. The accused Govind Basnett @ Bishal is tried for the offence of house trespass and house breaking under section 331(1) and the offence of theft in a dwelling house under Section 305(a) of the Bharatiya Nyaya Sanhita, 2023.

2. It is the case of the prosecution that accused has a history of involvement in petty crimes with a record of conviction in Ranipool P.S Case FIR No. 43/2017 dated 10.12.2017 under sections 454 and 380 of the Indian Penal Code, 1860. On 16.01.2026 at around 0930 hours, the victim Ms. Radhika Rai left for duty from her rented premises at Dahal Gaon, 06th Mile, Tadong, Gangtok. She returned at 1330 hours and found that the lock of the main door had been forced open. Upon inspection it was discovered that the godrej almirah had been broken and the following items were found missing (i) One silver chain valued at Rs. 3-4 thousand (ii) one silver ring valued at Rs. 1500/- (iii) One laptop HP valued at Rs. 42,000/-, (iv) two Samsung mobile phone valued at Rs. 31,000/- and (v) one gas cylinder. That the accused was suspected was interrogated during which he gave disclosure

that he had stolen the items and sold the LPG cylinder to Manoj Kumar Gupta Proprietor of mobile shop at Ranipool. The gas cylinder and PAN card and Aadhar card were seized from the shop of Manoj Kumar Gupta.

3. The prosecution produced and examined 05 witnesses. During the examination of the accused person under Section 351 of BNSS, 2023, he denied all the incriminating facts and evidences appearing against him and pleaded innocence.

4. During arguments Ld. APP Ms. Pollin Rai argued that the accused has given disclosure statement Exhibit-P5 in the presence of witnesses which is proved by PW-3 witness and the investigating officer PW-5. That the accused has given the disclosure that he sold the gas cylinder to Manoj Kumar Gupta. Ld. APP argued that Exhibit-P3 is the property seizure memo by which the gas cylinder MO-I was seized in the presence of witnesses PW-3 and PW-4. That there are sufficient material for convicting the accused.

5. On the other hand Ld. Assistant LADC Ms. Pema Dechen Bhutia for the accused argued that from Exhibit-P5 disclosure statement it is seen that the accused himself purchased the gas cylinder from one Asbin and another

person. That there are no eye witnesses in this case. That there are no CCTV footage or scientific evidence such as finger prints. PW-1 victim in her cross-examination has stated that she cannot identify the gas cylinder. PW-2 Manoj Kumar Gupta has stated in his cross-examination that he cannot identify the gas cylinder. Seizure witness PW-3 has stated that the gas cylinder does not contain his signature and cannot identify it. PW-4 seizure witness has stated that the gas cylinder does not contain her signature. On the other hand the investigating officer PW-5 in his cross-examination has stated that the witnesses put their signatures on the gas cylinder. That throughout in the charge-sheet the accused has named of Govind Basnett but the Aadhar card and PAN card that were seized are of Bishal Basnett. Ld. Counsel submits that there are sufficient contradiction and loopholes in the case of the prosecution and the accused is entitled to be acquitted.

6. Heard and considered.

7. The case of the prosecution rests upon the disclosure given by the accused and the recovery. It is seen from the charge-sheet that there was no evidence on the basis of which the accused was suspected and interrogated except in that he

allegedly has past history of petty offences. The disclosure statement Exhibit-P5 relied upon by the prosecution itself shows that the accused had purchased the gas cylinder from one Asbin and another person and further sold it to PW-2 Manoj Kumar Gupta. The charge-sheet is silent as to whether investigation was conducted on this issue. This in itself is sufficient to give the benefit of doubt to the accused.

8. Further victim PW-1 Radhika Rai in her cross-examination has stated that she cannot identify the gas cylinder. PW-2 Manoj Kumar Gupta has stated in his cross-examination that he cannot identify the gas cylinder. Seizure witnesses PW-3 and PW-4 also cannot identify the gas cylinder.

9. The investigating officer PW-5 in his cross-examination has stated that the witnesses put their signatures on the gas cylinder. However both witnesses PW-3 Indralall Dulal and PW-4 Sarita Sharma have stated that the cylinder does not contain their signatures but contains the signature of someone else. This contradiction coupled with the disclosure Exhibit-P5 raises serious doubts regarding the authenticity of the investigation and prosecution of the accused.

10. On the basis of the aforesaid findings and considerations, Govind Basnett, aged about 29 years, S/o Shiva Bahadur Basnett, R/o Nepal, at present 06th Mile, Tadong, Gangtok, Sikkim is hereby acquitted of the offences under Sections 305(a) and 331(1) of the Bharatiya Nyaya Sanhita, 2023.

PRONOUNCED IN OPEN COURT TODAY, THIS
THE 07th DAY OF JULY, 2026

Sd/-
SHRI JABYANG DORJEE SHERPA,
CHIEF JUDICIAL MAGISTRATE,
GANGTOK DISTRICT, SIKKIM

Accused Details:

Rank of the Accused Person	Name of Accused Person	Date of Arrest	Date of Release on Bail	Offences charged with	Whether Acquitted or Convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428, Cr.P.C
1.	Govind Basnett	16.01.2026	---	under Sections 305(a) and 331(1) of the Bharatiya Nyaya Sanhita, 2023.	Acquitted		16.01.2026 to 07.07.2026

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)
PW-1	Radhika Rai	Complainant- To prove the FIR.
PW-2	Manoj Kumar Gupta	To prove the statement under section 180 of BNSS, 2023.
PW-3	Indra Lall Dulal	Seizure witness- To prove statement under section 180 of BNSS, 2023 and

		seizure.
PW-4	Sarita Sharma	Seizure witness- To prove statement under section 180 of BNSS, 2023 and seizure.
PW-5	Durga Bahadur Gautam	Investigating Officer - To prove investigation of the case.

B. Defence Witnesses, if any:

NIL

C. Court Witnesses, if any:

NIL

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sl. No.	Exhibit Number	Description
1	Exhibit P1/PW1	FIR.
2	Exhibit P2/PW1	Formal FIR.
3	Exhibit P3/PW2	Property seizure memo
4	Exhibit P4/PW3	Seizure memo.
5	Exhibit P5/PW3	Disclosure statement.
6	Exhibit P6/PW5	Rough sketch map.

B. Defence:

NIL

C. Court Exhibits:

NIL

D. Material Objects exhibited by prosecution:

Sl. No.	Material Objects Number	Description
1	MO-I	Gas cylinder.
2	MO-II	Container of ornament.
3	MO-III	Broken lock.

Sd/-

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