

**IN THE COURT OF SESSIONS JUDGE, KHURDA
AT BHUBANESWAR**

Present:

Shri Biranchi Narayan Mohanty, OSJS,
Sessions Judge, Khurda at Bhubaneswar
(J.O. Code OD-00013)

Date of Judgment: 10th day of August, 2026

Crl. Trial No. 199 of 2025

(Arising out of Tamando P.S case No.115 dtd.
05.05.2025, corresponding to C.T. case
No. 381 of 2025)

Complainant / informant	State of Orissa
REPRESENTED BY	Smt. S. Swain, Public prosecutor
ACCUSED	Biswaranjan Bira @ Biswajit Bira @ Fagu, aged about 29 years, S/o-Lokanath Bira, At- Ranasinghpur,P.S-Tamando,Dist - Khurda
REPRESENTED BY	Sri R.N. Tripathy
Date of offence	05.05.2025
Date of FIR	05.05.2025
Date of charge sheet	17.06.2025
Date of framing of charges	28.07.2025
Date of commencement of evidence	22.09.2025
Date on which judgment is reserved	13.07.2026
Date of the judgment	10.08.2026
Date of the sentencing order, if any	10.08.2026
Accused details	
Rank of the accused	
Name of the accused	Biswajit @ Biswaranjan Bira @ Fagu
Date of arrest	05.05.2025
Date of release on bail	06.08.2025
Offences charged with	U/s.109(1) of BNS

Whether acquitted or convicted	Convicted
Sentence imposed	04 (four) years and fine of Rs.5,000/- (five thousand) in default R.I for 6 (six) months
Period of detention undergone during trial for the purpose of Sec. 468 of BNSS	Three months one day

Argument concluded on : 13.07.2026

Judgment pronounced on : 10.08.2026

JUDGMENT

Accused Biswajit @ Biswaranjan Bira @ Fagu stands charged U/s.109 (1) of Bharatiya Nyaya Sanhita (for short 'BNS').

2. The case of the prosecution, in a nutshell is that Sabita Bira (here-in-after referred to as 'the informant') lodged a written report on 05.05.2025 at about 1:50 PM before the IIC, Tamando P.S, Bhubaneswar UPD reporting therein that on the very day at about 7:50 AM while her husband Lokanath Swain (here-in-after referred to as 'the injured') was sitting at the tea stall of Pradipta Jena of their village, at that time Biswajit @ Biswaranjan Bira @ Fagu (here-in-after referred to as 'the accused') suddenly came there with an intention to kill her husband and assaulted him by means of a Telenga Katuri, as a result of which, her husband, the injured, sustained severe

injuries. Soon after the occurrence, the accused left the spot in his bullet motor cycle. The owner of the tea stall and other persons immediately shifted the injured to AIIMS, Bhubaneswar.

On the basis of the aforesaid report, the IIC, Tamando P.S registered the same as Tamando P.S case No.115, dtd. 05.05.2025, U/s.109(1) of BNS and directed S.I, U. K. Sahoo, to investigate the case. After completion of investigation, charge sheet was submitted against the accused for his involvement in commission of offence punishable U/s.109 (1) of BNS and ultimately, he faced the trial for such offence.

3. The plea of the accused is complete denial and false implication.

4. The point for determination in this case is:

Whether on 05.05.2025 at 7:30 AM, at the tea stall of Pradipta Jena, at Ranasinghpur, Tamando, the accused assaulted the husband of the informant by means of a “Telenga Katuri” on his head with such intention or knowledge that by that act, it would have caused death to the injured?

5. The prosecution to bring home the charges against the accused examined as many as 10 witnesses, of whom, P.W.1 is the informant and P.W.2 is her injured/husband. P.Ws.3 & 6 are the brother-in-law of the informant. P.W.4 is the brother of the

informant and P.W.5 is the owner of the tea stall. P.W.7 is an independent witness and leading to discovery made by the accused. P.Ws.8 & P.W.9 are the doctors who examined the informant and the weapon of offence, respectively. P.W.10 is the I.O of the case. Besides prosecution also relied upon certain documents under Ext.P-1 to Ext.P-7 and the weapon of offence as M.O.1. On the other hand, the accused in his defence examined himself as D.W.1.

6. Smt. S. Swain, learned P. P. contended that the informant and accused have their respective shops in front of AIIMS, Bhubaneswar. On the date of occurrence, when the accused found the articles of his shop was thrown outside, inquired into the matter and knew that the informant was the person, who did the same. Accordingly, the accused went to the village of the informant and attacked him by means of a Telenga Katuri on his head while he was sitting in the tea stall of Pradipta Jena. That fact is clearly evident from the evidence of the accused himself and the evidence of the injured (P.W.2) and tea stall owner, an eye witness (P.W.5). From the aforesaid evidence, the intention/knowledge of the accused to take the life of the injured is tale tail. Learned counsel further contended that soon after the occurrence, the accused threw the weapon of offence i.e. Telenga Katuri in a busy area near to the spot. Later, as per leading to discovery made by the accused, in presence of P.W.5

and P.W.7, the weapon of offence was discovered and it was seized through a proper seizure list. The weapon of offence was sent to the doctor for its opinion. The Doctor (P.W.9) on examination of the weapon of offence opined that the injury sustained by the injured could have been possible by that weapon. Learned counsel further contended that from the evidence of the doctor (P.W.8), who has examined and treated the injured at AIIMS, Bhubaneswar, it appears the injured has sustained seven injuries, out of which six numbers of injuries were grievous in nature and five injuries were on the head. Therefore, the prosecution has successfully established the charge U/s.109(1) of BNS against the accused.

7. Mr. R. N. Tripathy, learned counsel for the accused contended that the informant in her evidence has stated that while she was at her house, one Santosh Routray informed her about the incident over telephone, but neither the I.O made him as witness nor the prosecution examined him as a witness during trial. The informant further stated that on the next day of occurrence, her husband, the injured regained his sense, but from the evidence of the I.O, it appears the statement of the injured was recorded on the very same day of the occurrence i.e. on 05.05.2025. The learned counsel further contended that the informant in her evidence has stated that while his husband/ injured was undergoing treatment in AIIMS, Bhubaneswar, the

police seized his wearing apparels, but it could not be established during trial. That apart, the scribe of the FIR namely, Rajesh Sahu was not examined by the prosecution to prove the FIR.

Secondly, the learned counsel contended that even though the prosecution claims that the weapon of offence used was recovered / discovered at the instance of the accused in presence of P.Ws.5 & 7, but their evidence are so contradictory in nature, no reliance can be placed on it. That apart, there is no report produced by the prosecution to establish that dark brown blood like stain found on the weapon of offence is human blood or not. Therefore, it cannot be said that the weapon of offence under M.O.I was used in commission of alleged offence.

Lastly, learned counsel contended that the entire process of seizure was not videograph by the I.O. Therefore, the mandatory provision of Sec.105 of BNSS has not been complied with. In view of the aforesaid discrepancies, the prosecution failed to establish the charge U/s.109(1) of BNS against the accused beyond all reasonable doubt.

8. In view of the aforesaid rival submissions advanced by learned counsels for the parties, let us analysis the evidence adduced on behalf of the prosecution as well as the accused. The informant (P.W.1), who is the wife of the injured in her evidence has stated that on 05.05.2025 in between 7:30 AM to

7:50 AM, when her husband and others were in a tea stall of their village, the accused came there and assaulted her husband, as a result of which her husband sustained injury on his person. At that time, she was in her house. After hearing about such assault, she immediately rushed to the spot and found a gathering. After her arrival at the spot, the accused left the spot in his bullet motor cycle. There, she heard that the accused has assaulted her husband by means of a katari. Pradipta Jena and other two to three persons shifted her husband from the spot to AIIMS, Bhubaneswar. Then, she lodged the FIR being scribed by her neighbor Rajesh Sahoo. In her cross-examination, she has fairly stated that she has not seen the occurrence. She has disclosed the name of one Santosh Routray, who informed her over telephone about the assault made on her husband by the accused. In her cross-examination, she has further stated that while she was proceeding to the spot, on the way saw her husband was shifted to hospital. Her husband was not in sense and regained his sense on the next day. In her cross-examination, she has further stated that at the time of occurrence her husband wore black jean pant and blue printed half shirt. His wearing apparels were seized by the police at AIIMS, Bhubaneswar. She has further stated that her husband had undergone treatment as an indoor patient for six days. She has further stated that the contents of the FIR was read over and

explained to her by the scribe, Rajesh Sahoo. However, she could not recollect whether any certificate to that effect was furnished by Rajesh Sahoo or not. There was also no previous enmity between her husband and the accused.

9. P.W.3, the brother-in-law of the informant in his evidence has stated that the occurrence took place on 05.05.2025 in between 7:40 AM to 8 AM in a tea stall by then he was in his home. After hearing about the assault made by the accused on his brother-in-law, he immediately rushed to his house but by then the injured was already shifted to AIIMS, Bhubaneswar. Then he proceeded to AIIMS, Bhubaneswar and saw his brother-in-law. In his cross-examination, he has fairly admitted that he has not seen the occurrence and he does not have any direct knowledge about the occurrence. P.W.4, the brother of the informant also stated that in the same line. P.W.6 another brother-in-law of the informant also stated the same thing. From the aforesaid evidence of P.W.1, 3, 4 and 6, it appears they are not the eye witnesses to the occurrence nor they have any direct knowledge about the occurrence. They only gathered their knowledge regarding the assault on the injured by the accused from others.

10. The injured, who has been examined as P.W.2 in his evidence has stated that on 05.05.2025 while he was in the tea stall of Pradipta Jena along with his brother-in-law, Rabindra

Sahoo, in between 7:30 AM to 8 AM, the accused all of a sudden came to that tea stall in his bullet motor cycle, get down from the motor cycle and brought out a katuri. Then the accused assaulted him by means of that katuri on his head repeatedly as a result, he lost his sense. On the next day evening, he regained his sense and found himself in AIIMS, Bhubaneswar. He had undergone treatment as indoor patient for six days. In his cross-examination, he has stated that prior to the occurrence, the accused also damaged his shop, which is in front of AIIMS, Bhubaneswar. He has further stated that he had received seven injuries on his head. He has further stated that police took his wearing apparels from the hospital. He has further stated that at the time of occurrence, he, his brother in law and the tea stall owner were only present. The tea stall owner Pradipta Jena has been examined as P.W.5. In his evidence, he has stated that the occurrence took place on 05.05.2025 in between 7:30 AM to 8 AM at his tea stall. At the time of occurrence, the injured and his brother-in-law were taking tea. The accused at that time came in a bullet motor cycle and all of a sudden gave two to three blows on the head of the injured by means of a katuri. Soon after the occurrence, he and others shifted the injured to AIIMS, Bhubaneswar. In his cross-examination, he has stated that at the time of occurrence except him, the injured and his brother-in-law no other person were present. He has further

stated that he does not have any knowledge regarding any previous dissension between the parties.

11. Further from the evidence of the doctor (P.W.8) it appears on 5.5.2025, he received the patient i.e. the injured at about 9:24 AM in Trauma Centre (Emergency), AIIMS, Bhubaneswar. He found the following injuries on the person of the injured.

(i) Chop wound over left fronto parietal skull region of size 12 cm x 0.5 cm, skull deep,

(ii) Another chop wound in the same region of size 7 cm x 0.5 cm skull deep,

(iii) Another chop wound over left temporo parietal region of size 9 cm x 0.25 cm skull deep.

(iv) Another chop wound over the parietal region of size 13 cm x 0.5 cm skull deep,

(v) Another chop wound over left occipital region of size 11 cm x 0.75 cm skull deep,

(vi) Incised wound over right wrist of size 3 cm x 0.25 cm,

(vii) Multiple abrasions were present over the left dorsum of medial 3 digits of left hand.

In his cross-examination, the doctor has stated that at the time of his examination, the injured was in a position to talk. There were seven injuries on the person of the injured and out of it five injuries were grievous in nature.

12. P.W.9, the doctor who examined the weapon of offence i.e. Telenga Katuri has opined that the injuries sustained by the injured could have been possible by the seized katuri. However, in her cross-examination, she has stated that she cannot say whether that weapon was used in commission of the offence or not.

13. Further during investigation, as per the leading to discovery made by the accused, the weapon of offence was recovered and seized under seizure list (Ext.P-2/P.W.5). P.W.5 the tea stall owner and one independent witness (P.W.7) were the witnesses to the leading to discovery. P.W.5 in his evidence has clearly stated that on the date of occurrence at about 4 PM, while he was in his tea stall the police personal came to his tea stall along with accused and asked him to accompany them. Then they all proceeded and at a distance of 200 meters, the accused made discovery of Katuri from under a bush and same was seized by the police through a seizure list. Accordingly, P.W.5 proved the seizure list as well as his signature thereon. He has further stated that the police also recorded the statement of the accused U/s.23 of BSA, where he put his signature. Accordingly, he has proved the statement of the accused and his signature. P.W.7 another witness to seizure has stated that on 05.05.2025 he had been to Tamando P.S in relation to his personal work. At the P.S, in his presence, the police officer,

Umakanta Babu when asked the accused, he disclosed before police that he will make discovery of the weapon of offence i.e. Telenga katuri. Accordingly, the police recorded his statement, whereon he put his signature. Then the accused led the police and him to village Ranasinghpur, where the accused made discovery of Telengal Katuri from under a bush. Then the police seized that katuri through a seizure list. The witnesses identified the Katuri in Court, which is marked as M.O.I. However, in his cross-examination, he has stated that he does not have any direct knowledge about the occurrence. He came to know about the occurrence from the police. From the aforesaid evidence of both P.W.s 5 & 7, it appears the telenga katuri, which is the weapon of offence was recovered at the instance of the accused. No doubt, the dark brown blood like stain, which was found on the blade of the katuri could not be established to ascertain the stain was human blood or not, but that cannot be a ground to disbelieve the recovery of weapon of offence at the instance of the accused. That apart non videography / audiography or search and seizure also cannot be a circumstance to disbelieve the entire prosecution case.

14. From the aforesaid evidence of informant (P.W.2) and the eye witness P.W.5, it clearly established that when the injured was taking tea at the tea stall of P.W.5, the accused came there in his bullet motor cycle and assaulted the injured by means of

a telenga katuri as a result of which, the injured sustained injury on his head. The evidence of both P.Ws.2 & 5 are very much consistent about the assault made by the accused on the injured. No material could be elicited from their cross-examination to discredit their evidence. P.W.2, the injured in his cross-examination has stated that prior to the occurrence the accused also damaged his shop, which is in front of AIIMS, Bhubaneswar. The accused himself has been examined as D.W.1. In his evidence, he has stated that the informant is her cousin sister and the injured is his brother-in-law. The accused in his evidence has stated that he has a snack shop in front of AIIMS, Bhubaneswar and the injured having a shop inside their village. On 05.05.2025 at about 8 AM when he visited his snacks stall noticed that his stall was ransacked. When he inquired about the matter, the local people told him that the injured ransacked his shop. Then he proceeded to Tamando P.S to lodge FIR, but with the interference of his family members, he did not lodge the FIR keeping in mind, the injured is his brother-in-law. He has further stated that police had also took his signature in blank paper and assured him to get the matter compromise. But in the evidence of P.W.1 & 2 it appears, the accused is no way related to them except a co-villager. In his cross-examination, the accused has stated that he cannot say whether the injured having a shop in front of AIIMS,

Bhubaneswar or not. On a close analysis of the aforesaid evidence of P.Ws.2, 5 and the accused (D.W.1), it is clearly established that the accused assaulted the injured by means of a katuri on his head, which is a vital part of the body with a knowledge that the injury caused or might have caused may lead to death of the injured, though he had no intention to kill.

15. During course of argument, learned counsel for the accused contended that the person, who informed the informant and the scribe of the FIR were not examined by the prosecution and their non-examination is fatal to the prosecution. The aforesaid submission advanced by the learned counsel for the accused is not acceptable in view of the fact that the informant herself in her evidence has stated about the occurrence, which is inconsonance to her FIR. When the evidence of the injured and the eye witnesses P.Ws.2 & 5 so clear and consistent, non-examination of scribe of the FIR and the person, who intimated the informant about the occurrence has got no relevance to create doubt about the prosecution case.

16. Thus, in view of the aforesaid discussion, this Court has come to a conclusion that the prosecution has able to establish the charge U/s.109(1) of BNS against the accused beyond all reasonable doubt. Accordingly, the accused is found guilty U/s.109(1) of BNS, and convicted there under in terms of Sec. 258 (2) of BNSS, 2023.

In view of the nature of offence and the manner of commission of offence, this Court does not think it appropriate to extend the benefit of Probation of Offenders Act in favour of the convict.

Put up later for hearing on sentence.

Sessions Judge, Khurda
at Bhubaneswar.

Dictated, corrected by me and pronounced in the open Court today this the 10th day of August, 2026.

Sessions Judge, Khurda
at Bhubaneswar.

HEARING ON THE QUESTION OF SENTENCE

Heard Learned P. P, Learned defence counsel and the convict on the question of sentence. Learned defence counsel contended that the convict is the sole bread earner of his family. Therefore, the sentence may be imposed with leniency. Learned P. P. contended that in view of the manner of commission of offence no leniency should be extended and maximum punishment may be inflicted on the convict.

Having heard learned counsels for the parties and the convict so also taking into consideration the nature of commission of offence and the punishment prescribed for, this Court thinks it appropriate to sentence the convict to undergo rigorous imprisonment for 04 (four) years and fine of

Rs.5,000/- (five thousand) in default R.I for 6 (six) months for the offence U/s.109(1) of BNS. The period undergone by the convict as U.T.P be set off in terms of Sec.468 of BNSS.

The zimanama in respect of the seized bullet motor cycle stands cancelled and the seized Telenga Katuri under M.O-1 be destroyed, four months after the appeal period, if no appeal is preferred, and in case of appeal, the same shall be dealt with as per the order of the Appellate Court.

**Sessions Judge, Khurda
at Bhubaneswar.**

Dictated, corrected by me and pronounced in the open Court today this the 10th day of August, 2026.

**Sessions Judge, Khurda
at Bhubaneswar**

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES		
A. Prosecution witnesses		
Rank	Name	Nature of Evidence
P.W.1	Smt. Sabita Bira	Informant
P.W.2	Lokanath Swain	Injured of the case
P.W.3	Amit Jena	Brother-in- law of informant
P.W.4	Somanath Bira	Brother of the informant
P.W.5	Pradipta Jena	Witness to the occurrence
P.W.6	Bunu Pradhan	Brother-in-law of the informant.
P.W.7	Aru Prasad Bal	Witness to the statement of accused recorded U/s.23 of BSA

		and leading to discovery of the weapon of offence.
P.W.8	Dr. Aasish Kumar	Medical Officer
P.W.9	Dr. Kimi Soumya Padhi	Medical Officer
P.W.10	Umakanta Sahoo	I.O of the case
B. Defence witness, if any:		
Rank	Name	Nature of Evidence
D.W.1	Biswaranjan Bira	Accused
C. Court Witness, if any:		
Rank	Name	Nature of Evidence
Nil		
LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS		
A. Prosecution Exhibits		
Sl. No	Ext. Number	Description
1	Ext.P-1/P.W.1	FIR
2	Ext.P-1 ¹ /P.W.1	Signature of P.W.1 on Ext.P-1/P.W.1
3	Ext.P-2/P.W.5	Seizure list in respect of seizure of 'Katuri'
4	Ext.P-2 ¹ / P.W.5	Signature of P.W.5 on Ext.P-2/P.W.5
5	Ext.P-3/P.W.5	Statement of accused recorded U/s.23 of BSA
6	Ext.P-3 ¹ /P.W.5	Signature of P.W.5 on Ext.P-3/P.W.5
7	Ext.P-4/ P.W.5	Seizure list in respect of seizure of Bullet Motor Cycle.
8	Ext.P-4 ¹ /P.W.5	Signature of P.W.5 on Ext.P-4/P.W.5
9	Ext.P-3 ² /P.W.7	Signature of P.W.7 on Ext.P-3/P.W.5
10	Ext.P-2 ² /P.W.7	Signature of P.W.7 on Ext.P-2/P.W.5
11	Ext.P-4 ² /P.W.7	Signature of P.W.7 on Ext.P-4/P.W.5
12	Ext.P-5/P.W.8	MLC report prepared by P.W.8
13	Ext.P-5 ¹ /P.W.8	Signature of P.W.8 on Ext.P-5/P.W.8

14	Ext.P-6/P.W.9	Opinion report of P.W.9 on the query made by the I.O
15	Ext.P-6 ¹ /P.W.9	Signature of P.W.9 on Ext.P-6/P.W.9
16	Ext.P-1 ² /P.W.10	Endorsement with signature of the IIC in the FIR.
17	Ext.P-4 ³ /P.W.10	Signature of P.W.10 on Ext.P-4/P.W.5
18	Ext.P-3 ³ /P.W.10	Signature of P.W.10 on Ext.P-3/P.W.5
19	Ext.P-2 ³ /P.W.10	Signature of P.W.10 on Ext.P-2/P.W.5
20	Ext.P-7/P.W.10	Query requisition made by P.W.10
21	Ext.P-7 ¹ /P.W.10	Signature of P.W.10 on Ext.P-7/ P.W.10
B. Defence Exhibits, if any		
Sl. No	Ext. Number	Description
	Nil	
C. Court Exhibits, if any		
	Nil	
D. Material Objects:		
Sl. No	Material Object number	Description
1	M.O-1	Weapon of offence i.e. Telenga katuri

**Sessions Judge, Khurda
At Bhubaneswar.**