



2026:UHC:4135-DB

Reserved on: 13.05.2026

Delivered on: 25.05.2026

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Appeal No.437 of 2025

Naveen Singh Khadayat Appellant

Versus

State of Uttarakhand Respondent

Present:-

Mr. Amit Kapri along with Ms. Layba Noor, learned counsel for the appellant.
Mr. J. S. Virk, learned D.A.G. for the State.

Coram:Hon’ble Ravindra Maithani, J.
Hon’ble Siddhartha Sah, J.

(Per: Hon’ble Siddhartha Sah, J.)

The present Criminal Appeal has been preferred on behalf of the appellant against the impugned judgment and order dated 26.05.2025 passed by the learned Sessions Judge, Pithoragarh in Sessions Trial No.08 of 2022 under Sections 307, 326 of IPC (Case Crime No.48 of 2021 P.S. Jajardeval, District Pithoragarh) and Sessions Trial No.09 of 2022 under Sections 4/25 of Arms Act (Case Crime No.49 of 2021 P.S. Jajardeval, District Pithoragarh), ‘State of Uttarakhand vs. Naveen Singh Khadayat’, whereby the appellant has been sentenced as under:-

Sl. No.	Conviction	Sentence	Fine	Sentence in lieu of fine
1.	307 IPC	10 years R.I.	₹ 50,000/-	Additional Two Years R.I.
2.	326 IPC	10 years R.I.	₹ 50,000/-	Additional Two Years R.I.
3.	4/25 (1-B)(b) Arms Act	03 years imprisonment	₹ 10,000/-	Additional Six Months imprisonment

Aforesaid sentences were directed to run consecutively.

2. The relevant facts of the case as stated in this appeal are as follows:

- (i) FIR was lodged at P.S. Jajardeval, District Pithoragarh on 15.10.2021 by informant Chandra Mohan Singh. According to it, the appellant, who is neighbour of the informant, had old enmity with Lalit Singh, the brother of the informant. On 14.10.2021 at 08:45 p.m., when his brother Lalit Singh S/o Shri Umed Singh was returning home from Chaupakhia Mela, below the house near the cowshed, the appellant had some altercation with him, on which the appellant attacked Lalit Singh with a sharp edged weapon, with an intention to kill him. Due to it, the right hand of Lalit Singh got cut. He also sustained injury on the head. His brother was taken to the hospital, who was subsequently referred to Haldwani. The report was entered in the Thana vide G.D. entry No.03 on 15.10.2021. The said report was registered as FIR/Case Crime No.48 of 2021 under Sections 307/326 IPC and investigation ensued. Recovery of the said Khukri led to registration of FIR under Section 4/25 of the Arms Act, 1959 against the accused/appellant as FIR/Case Crime No.49/2021 at P.S. Jajardeval.
- (ii) When the injured Lalit Singh was initially brought to B.D. Pandey Hospital, Pithoragarh, the Bed Head Ticket records the following injuries on him- (i) Right forearm sharpened cut wound and is intact by skin, (ii) Right side forehead lacerated wound just above Right eyebrow, (iii) Lacerated wound over nose size 2.5 cm X 1.4 cm, (iv) Left side

parietal lacerated wound present size 2.7 cm X 1.5 cm and
(v) lacerated wound over the head size 6cm x 0.7cm.

Though initially the injured was taken to B.D. Pandey Hospital, Pithoragarh but records bear that initially he was referred to Haldwani & then he was admitted in emergency on 15.10.2021 at 8:15 pm at Shri Ram Murti Smarak Institute of Medical Sciences, Bareilly and was discharged on 01.11.2021. Two operations were done whereby there was amputation of right hand below elbow.

(iii) A disclosure statement of the appellant was recorded on 15.10.2021 in which he confessed of having attacked the injured with *Khukri* since he entertained doubt that the injured had an evil eye on his wife. On being interrogated, he disclosed that the *Khukri*, by which he had attacked Lalit Singh, has been concealed by him in the grass in cowshed behind his home. The said *Khukri* was recovered from the grass of the cowshed at the instance of appellant on 15.10.2021, which was taken into possession and recovery memo of *Khukri* was prepared, and the appellant was arrested. The arrest memo and the information memo were duly prepared.

(iv) It needs to be further mentioned that a blood spotted T-Shirt, which was worn by the appellant at the time of incident was taken into possession and the possession memo dated 15.10.2021 was prepared.

(v) The site plan of the place of occurrence was also prepared as also the site plan of recovery of *Khukri* and the sample seal of the case materials was also prepared.

- (vi) On 27.10.2021, the blood stained T-Shirt and blood stains were permitted to be sent for FSL examination vide order of CJM, Pithoragarh and the said materials were received by FSL, Dehradun on 29.10.2021. On completion of investigation, the charge-sheet was submitted on 03.01.2022 against the appellant under Sections 307/326 IPC. Charge-sheet dated 12.11.2021 was submitted under Section 4/25 of the Arms Act. In Sessions Trial No.08 of 2022, charges under Sections 307/326 of IPC were framed on 24.05.2022, which were denied by the appellant and he claimed trial. In Sessions Trial No.09 of 2022, charge under Section 4/25 of the Arms Act was framed on 24.05.2022, which was denied by the appellant & he claimed trial. Since both the cases pertained to the same incident, vide order dated 05.11.2022, Sessions Trial No.08 of 2022 State vs. Naveen Singh Kharayat & Sessions Trial No.09 of 2022 State vs. Naveen Singh Kharayat ,were consolidated & Sessions Trial No.08 of 2022 State vs. Naveen Singh Kharayat was to be the leading case file.

Thereafter, trial commenced & statements of witnesses were recorded.

- (vii) The victim Lalit Singh was examined as PW1 and in his statements, he stated in detail about the incident of 14.10.2021 when at about 8:45 p.m. the appellant entered his old home/cowshed and telling him why he is standing in his place, he will kill him today, the appellant hit his head with *Khukri* and also with the intention to kill him, attacked his neck, which he stopped with his hand when

his hand got cut and hung, then the appellant also attacked with *Khukri* on the face and nose and caused injury above eyebrow. From the attack, he got drenched in blood and the appellant also hit him by *Khukari* behind his neck and back. He shouted and fell down, then after some time his wife and his younger brother came and he was taken to hospital through 108 Ambulance. Seeing his serious condition, the family members took him to Haldwani and after being kept in Haldwani for 12 hours, he was referred to Shri Ram Murti Smarak Institute of Medical Sciences, Bareilly, where Dr. Afsar Khan treated him and suggested that whole hand has to be cut, as in the effort of joining, infection can spread. The respondent counsel cross-examined the injured PW1 but nothing material came to light.

- (viii) PW2 Chandra Mohan Singh is the brother of injured, who came to the spot where injured had received injury. He stated that Bhabhi had taken the injured to hospital and he lodged report in Thana and verified his signatures thereon which was marked as Exhibit P-1.
- (ix) PW3 S.I. Manoj Pandey deposed that in the interrogation after arresting the appellant disclosed that the *Khukri* by which the appellant assaulted the injured has been concealed by him in his cowshed which was recovered at the instance of the accused and a recovery memo was prepared bearing his signatures, which he proved and was marked as Exhibit P-2. The *Khukri* was sealed at the spot and sample seal was prepared which bears his signatures

and which he proved and was marked as Exhibit P-3. The appellant was arrested and the arrest memo was prepared, which bears his signatures and which he proved and was marked as Exhibit P-4. The check list and arrest information memo were also proved by him and were marked as Exhibit P-5 and P-6 respectively. In the Court, a sealed bundle was opened from which a *Khukri* came out bearing chit of FSL. The *Khukri* was marked as material Exhibit MO-1 and the sealing cloth was marked as material Exhibit MO-2.

- (x) PW4 A.S.I. P.R. Arya deposed that the FIR under Sections 4/25 of the Arms Act bearing FIR No. 49 of 2021 was lodged by him and proved the same, which was marked as Exhibit P-7.
- (xi) PW5 Smt. Nirmala Devi wife of the injured deposed that when she and her brother-in-law went to cowshed, she saw her husband badly bleeding and his hand was cut; there were injuries on his head, face, back and the injured told her that the appellant had assaulted him with *Khukri*. 108 ambulance was called and injured was brought to District Hospital, Pithoragarh and thereafter, he was referred to higher centre from Pithoragarh. His condition was serious so he was referred to Shri Ram Murti Smarak Institute of Medical Sciences, Bareilly where doctors told that infection was spreading to hand, the hand was amputated to save his life.
- (xii) PW6 Manoj Kumar is a resident of the same village Malli, Riyansi and had reached Lalit Singh's cowshed on hearing

the cries, he saw Lalit Singh covered in blood. He informed the Up Pradhan then Chowki Vadda and then called 108. However, he was declared hostile.

- (xiii) PW7 Rakesh Singh deposed that he was posted as Constable Clerk, Thana Jajardeval on 14.10.2021 and had lodged Case Crime No.48 of 2021, under Sections 307/326 IPC in CCTNS online chik, which bears his signature and proved the same, which was marked as Exhibit P-8. He also proved G.D. Report No.3 on which he proved his signatures and the same was marked as Exhibit P-9.
- (xiv) PW8 Doctor Lal Singh Bora deposed that on 14.10.2021 he was posted as Main Surgeon in District Hospital, Pithoragarh where he gave surgical treatment to Lalit Singh Khadayat. He stated about injuries received by injured from sharp edged weapon. At 11:50 on 14.10.2021, the patient was referred to higher centre. If the patient was not brought to hospital on time he could have died from excessive bleeding. The witness PW8 proved his signatures on Bed Head Ticket Report which was marked as Exhibit P-10. The witness also proved Refer Slip bearing his signatures which was marked as Exhibit P-11.
- (xv) PW9 Doctor Afsar Khan recorded his evidence by video conferencing posted in Shri Ram Murti Smarak Institute of Medical Sciences, Bareilly and deposed that the injured Lalit Singh was admitted in the hospital on 15.10.2021 at 8:15 and remained there till 01.11.2021; when he was admitted in hospital his right hand was cut below the elbow which was attached with body part of skin and since

the hand could not be saved it was amputated by an operation. The witness proved the supplementary report bearing his signatures which was marked as Exhibit P-12.

(xvi) PW10 Constable Suresh Singh deposed that he was appointed as special messenger and he had proceeded with the sealed material and forwarding letter to FSL, Dehradun on 28.10.2021; he had submitted the sealed bundles in FSL, Dehradun on 29.10.2021 and obtained receipt which he had submitted in the Thana. On 09.12.2021, he had carried the sealed material of FTA card to FSL and submitted them on 10.12.2021 and obtained receipt which he submitted in the Thana.

(xvii) PW11 Jasvir Singh was at the relevant time posted as Chowki In-charge Vadda, Thana Jajardeval & had received the investigation of Case Crime No.48 of 2021 and at the instance of the informant prepared site plan which bears his signatures which he proved as Exhibit P-13. He also proved arrest memo which was marked as Exhibit P-14; arrest information memo which was marked as Exhibit P-15; check list which was marked as Exhibit P-16; recovery memo of T-shirt which was marked as Exhibit P-17; sample seal of sealing of T-shirt which was marked as Exhibit P-18; disclosure statement of accused which was marked as Exhibit P-19; application for medical report which was marked as Exhibit P-20; forwarding letter containing receipt of FSL which was marked as Exhibit P-21; another forwarding letter containing receipt of FSL which was marked as Exhibit P-22; site plan which was

marked as Exhibit P-23; charge-sheet which was marked as Exhibit P-24; charge-sheet registered online through CCTNS which was marked as Exhibit P-25 and FSL report which was marked as Exhibit P-26.

(xviii) PW12 S.I. Meenakshi Manral stated that she received the investigation of Case Crime No. 49 of 2021, under Section 4/25 of the Arms Act. She proved the site plan which was marked as P-27. Upon investigation, she prepared charge-sheet and she proved the charge-sheet which was marked as Exhibit P-28. The charge-sheet was also lodged in CCTNS which was proved by her and marked as Exhibit P-29.

(xix) PW 13 Dr. Dhawal Waghela deposed that on 08.12.2021 he was posted as Pathologist in B.D. Pandey District Hospital, Pithoragarh and he had taken blood samples of the appellant and the injured which collection were taken on FTA cards and placed with form in an envelope and sealed and sent to court.

Thereafter, statements of the appellant were recorded under Section 313 of the Code of Criminal Procedure, 1973, wherein he denied all the allegations and materials put to him and feigned ignorance about the evidence against him and stated that he is innocent and he has been falsely implicated.

(xx) Thereafter, the learned Sessions Judge, Pithoragarh heard the arguments of learned counsel for the parties and vide judgment and order dated 26.05.2025 convicted the accused/appellant under Sections 307/326 IPC and under

Section 4/25 (1-B)(b) of the Arms Act and sentenced him accordingly.

3. Learned counsel for the appellant would submit that the prosecution case is false; the appellant is innocent and he has been falsely implicated.

4. Learned counsel for the appellant further argued that there are major inconsistencies in the statements of PW-1 when the same is compared with the depositions made by the other witnesses.

5. Trying to impeach the testimony of PW-1, learned counsel for the appellant would submit that though PW-1 has stated that his brother and wife were the first persons who came after the incident, in cross-examination of PW-1 itself, it has come that the first person to arrive after the incident was one Bhawna. Learned counsel for the appellant also referred to the cross-examination of PW-6 & submitted that there are major inconsistencies in the prosecution case.

6. Learned counsel for the appellant would also try to impeach the testimony of PW-2 on the premise that after the incident, the PW-2 went to sleep at home, though he is the one who lodged the FIR at the police station. Thus, according to the learned counsel for the appellant, there is contradiction regarding the timing of the registration of the FIR.

7. Learned counsel for the appellant would further submit that Bhawna would have been main witness, but she has not been examined.

8. Learned counsel for the appellant also assailed the manner and mode in which the Khukri was recovered at the instance of the appellant.

9. Learned counsel for the appellant has also submitted that during the incident the appellant had also sustained a minor injury on his finger; however, in the FSL report the Khukri does not contain the blood of the appellant and, therefore, according to the learned counsel for the appellant, there are inconsistencies in the prosecution case.

10. Per contra, learned counsel for the State would submit that the present case is one where the injured witness has narrated the incident in detail and, in fact, it is a case where the injuries inflicted by the accused-appellant led to the amputation of the arm of the injured below the elbow. The contradictions, as tried to be pointed out by the learned counsel for the appellant, are insignificant in the light of the clear statement of the injured, medical evidence and the DNA report regarding the blood of the injured having been found on the Khukri.

11. The bed-head ticket/report of District Hospital, Pithoragarh clearly states about the grievous nature of the injuries inflicted upon the injured Lalit Singh.

12. In the case of “Balu Sudam Khalde and Another vs. State of Maharashtra”, (2023) 13 SCC 365, the Hon’ble Supreme Court has laid down the principles for appreciating evidence of an injured witness. The Hon’ble Supreme Court held as under:-

“26. When the evidence of an injured eyewitness is to be appreciated, the undernoted legal principles enunciated by the courts are required to be kept in mind:

26.1. The presence of an injured eyewitness at the time and place of the occurrence cannot be doubted unless there are material contradictions in his deposition.

26.2. Unless, it is otherwise established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused.

26.3. The evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.

26.4. The evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.

26.5. If there be any exaggeration or immaterial embellishments in the evidence of an injured witness, then such contradiction, exaggeration or embellishment should be discarded from the evidence of injured, but not the whole evidence.

26.6. The broad substratum of the prosecution version must be taken into consideration and discrepancies which normally creep due to loss of memory with passage of time should be discarded.”

13. Reference is also made to the judgment of the Hon’ble Supreme Court in the case of “Abdul Sayeed vs. State of Madhya Pradesh”, (2010) 10 SCC 259, wherein the Hon’ble Supreme Court in paragraph nos.28, 29 and 30 has held as under:-

“28. *The question of the weight to be attached to the evidence of a witness that was himself injured in the course of the occurrence has been extensively discussed by this Court. Where a witness to the occurrence has himself been injured in the incident, the testimony of such a witness is generally considered to be very reliable, as he is a witness that comes with a built-in guarantee of his presence at the scene of the crime and is unlikely to spare his actual assailant(s) in order to falsely implicate someone. “Convincing evidence is required to discredit an injured witness.”*
[Vide Ramlogan Singh v. State of Bihar [(1973) 3 SCC 881 : 1973

SCC (Cri) 563 : AIR 1972 SC 2593] , *Malkhan Singh v. State of U.P.* [(1975) 3 SCC 311 : 1974 SCC (Cri) 919 : AIR 1975 SC 12] , *Machhi Singh v. State of Punjab* [(1983) 3 SCC 470 : 1983 SCC (Cri) 681] , *Appabhai v. State of Gujarat* [1988 Supp SCC 241 : 1988 SCC (Cri) 559 : AIR 1988 SC 696] , *Bonkya v. State of Maharashtra* [(1995) 6 SCC 447 : 1995 SCC (Cri) 1113] , *Bhag Singh* [(1997) 7 SCC 712 : 1997 SCC (Cri) 1163] , *Mohar v. State of U.P.* [(2002) 7 SCC 606 : 2003 SCC (Cri) 121] (SCC p. 606b-c), *Dinesh Kumar v. State of Rajasthan* [(2008) 8 SCC 270 : (2008) 3 SCC (Cri) 472] , *Vishnu v. State of Rajasthan* [(2009) 10 SCC 477 : (2010) 1 SCC (Cri) 302] , *Annareddy Sambasiva Reddy v. State of A.P.* [(2009) 12 SCC 546 : (2010) 1 SCC (Cri) 630] and *Balraje v. State of Maharashtra* [(2010) 6 SCC 673 : (2010) 3 SCC (Cri) 211] .]

29. While deciding this issue, a similar view was taken in *Jarnail Singh v. State of Punjab* [(2009) 9 SCC 719 : (2010) 1 SCC (Cri) 107] , where this Court reiterated the special evidentiary status accorded to the testimony of an injured accused and relying on its earlier judgments held as under : (SCC pp. 726-27, paras 28-29)

“28. Darshan Singh (PW 4) was an injured witness. He had been examined by the doctor. His testimony could not be brushed aside lightly. He had given full details of the incident as he was present at the time when the assailants reached the tubewell. In *Shivalingappa Kallayanappa v. State of Karnataka* [1994 Supp (3) SCC 235 : 1994 SCC (Cri) 1694] this Court has held that the deposition of the injured witness should be relied upon unless there are strong grounds for rejection of his evidence on the basis of major contradictions and discrepancies, for the reason that his presence on the scene stands

established in case it is proved that he suffered the injury during the said incident.

29. In State of U.P. v. Kishan Chand [(2004) 7 SCC 629 : 2004 SCC (Cri) 2013] a similar view has been reiterated observing that the testimony of a stamped witness has its own relevance and efficacy. The fact that the witness sustained injuries at the time and place of occurrence, lends support to his testimony that he was present during the occurrence. In case the injured witness is subjected to lengthy cross-examination and nothing can be elicited to discard his testimony, it should be relied upon (vide Krishan v. State of Haryana [(2006) 12 SCC 459 : (2007) 2 SCC (Cri) 214]). Thus, we are of the considered opinion that evidence of Darshan Singh (PW 4) has rightly been relied upon by the courts below.”

30. *The law on the point can be summarised to the effect that the testimony of the injured witness is accorded a special status in law. This is as a consequence of the fact that the injury to the witness is an inbuilt guarantee of his presence at the scene of the crime and because the witness will not want to let his actual assailant go unpunished merely to falsely implicate a third party for the commission of the offence. Thus, the deposition of the injured witness should be relied upon unless there are strong grounds for rejection of his evidence on the basis of major contradictions and discrepancies therein.”*

14. After considering the entire evidence on record and in particular the testimony of PW-1, who is himself the injured witness, there is clear and categorical evidence about the manner in which the

appellant-accused assaulted the injured and the injuries sustained by him.

15. It will also be apposite to mention that the doctor, PW-8, who initially provided the surgical treatment to the injured, has clearly deposed in his statement that the injuries could have been fatal for him, if he was not brought to hospital on time. He has also proved the BHT Report and referral of the injured to higher centre.

16. The doctor of Shri Ram Murti Smarak Institute of Medical Sciences, Bareilly has clearly stated that amputation of the right hand had to be resorted to in order to contain the spread of infection in the hand.

17. It is true that according to PW 2 Chandra Mohan Singh and PW 5 Smt. Nirmala Devi, they were informed by one Bhawna Khadayat about the injuries on PW 1 Lalit Singh. It is argued that Bhawna Khadayat would have been the best witness, who has not been examined. This argument has less force for acceptance. In the instant case, PW 1 Lalit Singh is injured himself. He has stated as to how he was attacked by the appellant. His testimony is supported by the medical evidence. PW 2 Chandra Mohan Sati and PW 5 Smt. Nirmala Devi, both reached immediately at the spot, when still PW 1 Lalit Singh was lying in injured condition. Therefore, non-examination of Bhawna Khadayat makes no difference. Even otherwise, it is settled law that it is quality of evidence which matters and not the quantity.

18. PW 3 S.I. Manoj Pandey has categorically stated that on 15.10.2021, on interrogation, the appellant revealed that the *Khukhri*, by which he attacked the injured had been concealed by him in a

cowshed, which he subsequently got recovered. The forensic science report connects the *Khukhri* with the offence.

19. In such view of the matter, there is clear evidence on record which proves beyond a shadow of doubt the charges against the appellant. However, one fact remains that it is apparent from the record that there was enmity between the appellant and the injured with regard to the cow shed, as both of them claimed the same to be their property, which, from the narration of the events, appears to have led to a fight and the appellant appears to have, in a rage, resorted to such a grave crime. The appellant, by now, has been in incarceration for more than four years, therefore, there can be some consideration regarding quantum of sentence. Hence, although the impugned judgment and order is upheld, since there is no infirmity in the impugned judgment and order, however, in the peculiar facts and circumstances of the case, the sentence awarded under Sections 307 and 326 of the IPC is reduced from 10 years to seven years. The rest of the judgment does not require any alteration.

20. The learned counsel had also made a submission that the normal rule is that sentences would run concurrently, however, in the present case there was no rhyme or reason to order the sentences to run consecutively. In such view of the matter, it would serve the purpose if the sentences are modified to run concurrently.

21. Accordingly, the appeal is partly allowed. The sentence awarded under Sections 307 and 326 IPC is reduced from 10 years rigorous imprisonment to 07 years rigorous imprisonment each and the sentences to run concurrently. However, the conviction is upheld.

22. Let a copy of this judgment along with the original records be sent to the trial court concerned forthwith. The appellant to serve out the remaining sentence.

(Siddhartha Sah, J.)
25.05.2026

(Ravindra Maithani, J.)
25.05.2026

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