

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.7 of 2025**

Arising Out of PS. Case No.-106 Year-2011 Thana- BAHADURGANJ District- Kishanganj

Mangla Son of Bilta Resident of Village- Jhingakata, P.S.- Bahadurganj,
Distt.- Kishanganj, Bihar

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant	:	Mr. Prashant Kumar, Advocate Mr. Mayank Mohan, Advocate
For the Respondent	:	Mr. Binod Bihari Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

and

HONOURABLE MR. JUSTICE PRAVEEN KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PRAVEEN KUMAR)

Date : 10-02-2026

Heard learned counsel for the appellant and learned
Additional Public Prosecutor for the State.

2. This appeal has been preferred on behalf of the appellant through Patna High Court Legal Services Committee challenging the judgment of conviction dated 17.02.2018 (hereinafter referred to as the ‘impugned judgment’) and the order of sentence dated 21.02.2018 (hereinafter referred to as the ‘impugned order’), passed by the learned Additional Sessions Judge-I, Kishanganj (hereinafter referred to as the ‘learned trial court’), in Sessions Trial No. 1170/2011, arising out of Bahadurganj P.S. Case No. 106/2011, whereby the appellant has been convicted for the offence punishable under Section 302 of the Indian Penal Code (in short ‘I.P.C.’) and has been ordered to



undergo imprisonment for life and a fine of Rs. 10,000/-, and in default of payment of fine, he has been ordered to further undergo imprisonment for one year.

Prosecution Case: -

3. The prosecution story, in a nutshell, is that the *fard-beyan* of Shamshun Nisha (PW 1), wife of late Mukhtar Alam, came to be recorded on 26.08.2011 at 10:30 A.M. at Md. Gulam Haider Tea Shop, Jhigakatta Hat, by the P.S.I. Bhanu Pratap Singh of Bahadurganj P.S. In the said *fard-beyan*, the informant has mainly stated that at 07:00 AM, while her husband Late Mukhtar Alam was sitting with his brother Md. Gulam Haidar @ Kailu (PW 3) at the tea-snacks stall of his brother, Mangla (the appellant) came at the shop and sat there and picked up an axe lying there and assaulted on the head of her husband by axe causing serious injuries on the head and as a result of the said injuries, her husband died at the spot. On hearing the *hulla* about the said killing, the people from surrounding caught hold of Mangla (the appellant) and thrashed him causing serious injuries to him. Thereafter, the police was informed and on arrival of the police, the appellant was handed over to them. The informant has claimed that the appellant has intentionally assaulted her husband leading to his death.



4. On the basis of the aforesaid *fard-beyan* given by informant (Shamsun Nisha), formal FIR came to be registered as Bahadurganj Police Station Case No.106 of 2011 on 26.08.2011 at 12:30 hours against sole accused (the appellant herein) for the offences under Sections 302 IPC.

5. After registration of the F.I.R., the accused-appellant was taken into custody and sent for treatment. The Investigating Agency carried out the investigation and, during the course of the investigation, the Investigating Officer recorded the statement of the witnesses and collected the necessary evidence. Prior to that inquest report was prepared on the spot and dead body of the deceased was sent for conducting the post mortem.

6. After completion of investigation, the Investigating Officer (I.O.) submitted charge-sheet being Charge-Sheet No. 148 of 2011 dated 31.08.2011 under Section 302 of the IPC.

7. On the basis of the police report, cognizance was taken under Section 302 IPC against the accused-appellant. As the case was exclusively triable by the Court of Sessions, the learned Magistrate committed the same to the Sessions Court under Section 209 of the Code of Criminal Procedure (in short 'CrPC'), where the same was registered as Sessions Trial No.1170 of 2011.



8. On 24.08.2012, charges were read over and explained to the appellant in Hindi to which he pleaded not guilty and claimed to be tried. Thereafter, the charge was framed against the appellant for the offence punishable under Section 302 IPC.

9. In course of trial, the prosecution examined as many as seven witnesses and exhibited one documentary evidence. The names of the prosecution witnesses and the exhibit are being shown hereunder in tabular form:-

List of Prosecution Witnesses

PW-1	Shamshun Nisha (informant)
PW-2	Md. Ubed Alam
PW-3	Gulam Haider
PW-4	Md. Rafique Alam
PW-5	Md. Tarique Anjum
PW-6	Md. Ansar
PW-7	Dr. Gadhadhar Prasad Pandey

List of Exhibit on behalf of Prosecution

Exhibit '1'	Post mortem report
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10. Thereafter, the statement of the accused-appellant was recorded under Section 313 of the CrPC, in which he took a plea that he is innocent. The defence did not adduce oral or documentary evidence.

Finding of the Trial Court: -

11. The learned trial court has recorded in its finding that all the prosecution witnesses have supported the occurrence and



have deposed that the appellant had inflicted the axe blows on the head of the deceased as a result of which the deceased died on the spot. There is no occasion to disbelieve their evidence. The learned trial court has held that there is no contradiction in the evidence of the prosecution witnesses. The place, time and manner of occurrence and the injuries found on the body of the deceased are fully corroborated by the evidence on record. The trial court has also held that mere non-examination of the Investigating Officer will not render the prosecution case to be prejudicial to the right of the appellant.

12. Learned trial court found that on the basis of the cogent, convincing and reliable evidences brought on the record, prosecution has been able to prove the guilt against the appellant. Hence, learned trial court convicted the appellant for the offence punishable under Section 302 IPC.

**DISCUSSION WITH REGARD TO THE
DEPOSITION OF THE PROSECUTION WITNESSES:-**

13. At this stage, we would appreciate the relevant evidence given by the witnesses. The informant (PW 1), namely, Shamshun Nisha, the wife of the deceased, has mainly deposed in her examination-in-chief that the occurrence took place at around three years ago. In the morning, her husband was at the tea stall of



his brother, where the accused-appellant assaulted on the head of her husband by means of axe, leading to his death at the spot. The tea stall belonged to the younger brother of the husband of the informant, who was also sitting alongside him. On hearing the *hulla*, when the informant reached at the tea stall, she saw her husband dead. The accused-appellant was caught by the people there, police was informed, the police came and recorded her *fard-beyan*, which was read over to her and having found the same to be correct, she put her LTI on it. Thereafter, the police took the accused-appellant into custody along with the axe. The dead body was sent for post mortem. She identified the accused-appellant, who was present in the court.

14. In her cross-examination, PW 1 has admitted that she has not herself seen the occurrence and she has given her statement on the information gathered from the people. She has admitted that there was no enmity or transaction of money between the deceased and the accused-appellant.

15. PW 2, namely, Md. Ubed Alam, has deposed in his examination-in-chief that the occurrence took place in the morning of ninth month of 2011. While he was going to the market from his house, he heard that one insane person has killed someone. When they reached there, they saw that the deceased had died and came



to know that Mangla has killed the deceased by axe. He has deposed that he knows the accused-appellant, who used to roam in the market, but does not know from where he belonged to.

16. In his cross-examination, PW 2 has deposed that he has not seen that the accused-appellant killed the deceased by means of axe, he came to know about it from people in the market that the accused-appellant was roaming in the market with an axe.

17. PW 3, namely, Gulam Haidar, has deposed in his examination-in-chief that at the time of occurrence, at about 07:00, his brother (deceased) was at the tea stall and PW 3 was in his house. When he went to the tea stall after hearing the *hulla*, he saw that his brother was lying dead on the ground with complete blood out of his body. People were surrounding the accused-appellant and told that the accused-appellant has killed the deceased by axe. Police had arrived by then and the accused-appellant was holding the axe with blood stains on it. Police took away the accused-appellant.

18. In his cross-examination, PW 3 deposed that no quarrel had ever taken place between the deceased and the accused-appellant. Accused-appellant used to roam around the market and beg for food. Everyone in the market said that accused-



appellant has killed the deceased and even the son of PW 3 told him about it.

19. PW 4, namely, Md. Rafique Alam, has also deposed in his examination-in-chief that the occurrence took place three years ago at around 07:00 AM. He had come to the tea stall for taking tea, and while he was taking tea, he saw the accused-appellant came from the back side of the tea stall with one axe and gave blow with axe on the head of the deceased. The deceased died there. He identified the accused-appellant in the court.

20. In his cross-examination, PW 4 has deposed that there was no enmity between the accused-appellant and the deceased, the deceased gave the blow without any warning. He thereafter deposed that he went to the place of occurrence on hearing *hulla* and people told him.

21. PW 5, namely, Md. Tarique Anjum, had deposed in his examination-in-chief that the occurrence took place in the morning two years ago. He was sitting on a *chowki* on the side of the road, where tea stall of Gulam Haider is situated. The deceased was also sitting there. The accused-appellant came from behind with an axe and gave axe blow on the head of the deceased, when he turned up on hearing the sound he saw that the accused-appellant had given two-three axe blows on the head of the



deceased causing severe injuries on his head and he died. He has identified the accused who was present in the court.

22. In his cross-examination, PW 5 has deposed that the accused-appellant used to roam around the market. He does not know the residence of the accused-appellant. The accused-appellant does not do anything, if someone gives something, he used to eat. From his appearance, accused-appellant does not seem to be of sound mental health. He denied that the accused-appellant is innocent.

23. PW 6, namely, Md. Ansar, has deposed in his examination-in-chief that the occurrence took place at 07:00 AM two years ago. His house is near the place of occurrence. When he was opening his garage, he heard that the accused-appellant has killed the deceased by means of axe, when he reached there, he saw that the deceased has died due to injuries. The people caught hold the accused-appellant and snatched the axe. He identified the accused.

24. In his cross-examination, PW 6 has deposed that by appearance, the accused-appellant seems to be mentally derailed. Accused-appellant had inflicted four axe blows. The accused-appellant did not have any enmity with the deceased. The accused-appellant used to roam around like a mad man and if someone



gives something he used to eat it. He denies that the accused is innocent.

25. PW 7, Dr. Gadhadhar Prasad Pandey, is the doctor, who conducted the post-mortem examination of the dead body of the deceased. He has deposed in his examination-in-chief that he was posted as M.O. at S.D.H., Kishanganj. On 26.08.2011, at 01:05 PM, he conducted the *post mortem* examination of the dead body the deceased and found the following *ante mortem* injuries:-

“I. Incised wound 1-1/2” x 1/2” x bone deep on Lt. Side of front of head.

II. Incised wound 2”x1/2”x fracture of underline bone on back of left side of head.

III. Incised wound 2”x 1/2” x fracture of underline bone below injury no.2.

IV. Incised wound 1-3/4”x1/2”x fracture of underline bone on back of left side of head. Brain bruised at places of fracture of skull bone.

Cause of injuries – sharp cutting weapon.

Time since death – within 12 hours.

Cause of death – Hemorrhage and shock caused by above mentioned injuries.”

26. In his cross-examination, PW 7 has deposed that such type of injuries cannot be possible by fall on *jhagar* used for lifting bucket from the well.



Submission of learned counsel of the appellant: -

27. Learned counsel for the appellant has submitted, at the outset, that the trial court has, during course of the trial noticed the behaviour of the appellant to be abnormal, stayed the proceeding, sought a report from the jail authorities and the Doctor regarding his mental condition. The report of the jail doctor suggests that the appellant was suffering from mental disease-chronic-schizophrenia. All the prosecution witnesses have deposed in their evidence that the appellant was '*pagal*' and used to roam around the market. However, without awaiting for the fitness report in this regard, the trial court concluded the trial and convicted the appellant. The provisions prescribed in Chapter-XXV CrPC were not followed and the protection flowing from the said provision did not incur in favour of the appellant. Even the application of the appellant under Section 311 CrPC was rejected. He submits that accordingly the impugned judgment warrants interference by this Court and the same may be set aside.

Submission of learned counsel of the State: -

28. Learned Additional Public Prosecutor for the State has submitted that there is no infirmity in the impugned judgment as all the prosecution witnesses have supported the occurrence and in their evidence they have deposed that the appellant has killed



the deceased. The murder weapon was also recovered and the appellant was arrested from the place of occurrence itself. However, learned Additional Public Prosecutor could not controvert the submission of learned counsel for the appellant that the provisions under Chapter XXV CrPC were not followed.

Consideration: -

29. From the perusal of the records including the evidences adduced on behalf of the prosecution and the different orders passed by the learned trial court, it is clear that the appellant was of unsound mind and was also lunatic at the time of occurrence as well as during the proceedings of trial in the trial court. The prosecution witnesses have categorically stated in their evidence that the appellant was of unsound mind at the time of commission of the occurrence.

30. From perusal of the record, it further transpires that order-sheets of the trial court would clearly reflect that on one stage, vide order dated 18.01.2014, during the production of the accused before the trial court, his behaviour appeared abnormal and lunatic and as such, the trial court directed the Jail Superintendent to submit a report from the Jail Doctor about the mental condition of the appellant. It would further appear from the order dated 05.02.2014 of the learned trial court that the report of



the Jail Doctor was received and the same was produced before the trial court.

31. The Jail Doctor, namely, Dr. Sunil Kumar, had reported that the under-trial accused/appellant is suffering from mental disease-chronic Schizophrenia, therefore, he is required to be provided proper treatment and his production before the court is required to be stayed till he regains mental fitness as he is possessing an unsound mind at the moment and is capable of making mistakes. The learned trial court stayed the further proceedings till the submission of the report of the Jail Doctor regarding the appellant's mental fitness. The order duly records that the provisions of Section 329 CrPC are required to be followed.

32. The Jail Superintendent and Jail Doctor Nishaya were directed to take proper steps for treatment of mental disorder of the under-trial accused and to report the learned court after he regains his mental fitness. This order of the learned trial court was forwarded to Superintendent of Jail, Kishanganj.

33. Thereafter, the reports were somehow kept pending and it appears that the appellant was sent to Dr. Jawaharlal Nehru Medical College and Hospital, Bhagalpur, but no report regarding his fitness was submitted to the trial court. These facts are



recorded in the order dated 15.05.2014 of the learned trial court. Further, it appears from the records that the trial of the accused-appellant was transferred to the court of learned Additional District and Sessions Judge-I, Kishanganj. The fitness report was still not received rather the order dated 04.08.2014 would show that the accused was still mentally unfit.

34. In this manner, the records were kept pending one after another date and lastly on 11.07.2016, the accused-appellant was produced in court with the custody warrant and the case was fixed for evidence. Thereafter, it appears that the learned trial court completely forgot the fact that no fitness certificate of the accused was ever produced by the Jail Superintendent and even during the evidence of the prosecution witnesses, it has transpired that the accused-appellant had lost his mental balance. It further transpires that during his statement recorded under Section 313 CrPC, the learned trial court ordered to appoint an Advocate for him through the District Legal Services Authority. Later on, one Prabhat Kumar Rai, Advocate, was deputed by the District Legal Services Authority to defend the accused. Further, it transpires from the order of the learned trial court dated 29.11.2017 that the learned defence lawyer appearing in the trial court on behalf of the accused-appellant, filed an application under Section 311 CrPC



and requested the learned court to call for all the medical reports relating to the accused, but unfortunately vide order dated 18.12.2017, this application was rejected by the learned Additional District and Sessions Judge- I, Kishanganj, on the ground that the accused was medically examined vide medical report dated 13.06.2014, but during the whole trial the defence has not taken any step to get the same exhibited and because the case is of the year 2011, such application was filed by the defence only to prolong the trial.

35. The learned trial court rejected the application of the defence under Section 311 CrPC to examine the doctor, who had medically examined the accused and went on to record a finding that the accused seems medically fit and healthy.

36. In order to appreciate the matter in its totality, this Court would like to refer to Chapter XXV of the CrPC wherein the provisions as to accused persons of unsound mind has been provided. This Court would like to reproduce Section 329 CrPC for ready reference, which reads thus: -

“329. Procedure in case of person of unsound mind tried before Court.—(1) If at the trial of any person before a Magistrate or Court of Session, it appears to the Magistrate or Court that such person is of unsound mind and consequently incapable of making his



defence, the Magistrate or Court shall, in the first instance, try the fact of such unsoundness and incapacity, and if the Magistrate or Court, after considering such medical and other evidence as may be produced before him or it, is satisfied of the fact, he or it shall record a finding to that effect and shall postpone further proceedings in the case.

¹[(1-A) If during trial, the Magistrate or Court of Sessions finds the accused to be of unsound mind, he or it shall refer such person to a psychiatrist or clinical psychologist for care and treatment, and the psychiatrist or clinical psychologist, as the case may be shall report to the Magistrate or Court whether the accused is suffering from unsoundness of mind:

Provided that if the accused is aggrieved by the information given by the psychiatric or clinical psychologist, as the case may be, to the Magistrate, he may prefer an appeal before the Medical Board which shall consist of—

(a) head of psychiatry unit in the nearest government hospital; and

(b) a faculty member in psychiatry in the nearest medical college.]

²[(2) If such Magistrate or Court is informed that the person referred to in sub-

1. Inserted by Act 5 of 2009, S. 26 (w.e.f. 31-12-2009).

2. Substituted by Act 5 of 2009, S. 26, for sub-S. (2) (w.e.f. 31-12-2009).



section (1A) is a person of unsound mind, the Magistrate or Court shall further determine whether unsoundness of mind renders the accused incapable of entering defence and if the accused is found so incapable, the Magistrate or Court shall record a finding to that effect and shall examine the record of evidence produced by the prosecution and after hearing the advocate of the accused but without questioning the accused, if the Magistrate or Court finds that no prima facie case is made out against the accused, he or it shall, instead of postponing the trial, discharge the accused and deal with him in the manner provided under section 330:

Provided that if the Magistrate or Court finds that a prima facie case is made out against the accused in respect of whom a finding of unsoundness of mind is arrived at, he shall postpone the trial for such period, as in the opinion of the psychiatrist or clinical psychologist, is required for the treatment of the accused.

(3) If the Magistrate or Court finds that a prima facie case is made out against the accused and he is incapable of entering defence by reason of mental retardation, he or it shall not hold the trial and order the accused to be dealt with in accordance with section 330.]”



37. From a bare perusal of Section 329 (1) CrPC, it is clear and there appears no ambiguity in coming to a conclusion that it appears to the Magistrate or Court that if a person is of unsound mind and consequently incapable of making his defence, the Magistrate or Court shall, in the first instance, try the fact of such unsoundness and incapacity, and if the Magistrate or Court, after considering such medical and other evidence as may be produced before him or it is satisfied of the fact that he or she shall record a finding to that effect and shall postpone further proceedings in the case.

38. It appears from perusal of the record as discussed above, particularly by orders of the trial court dated 18.01.2014, wherein the learned trial court came to a finding *prima facie* that the behaviour of the accused-appellant was abnormal and lunatic. A report was called for by the Jail Superintendent regarding the mental condition of the appellant. Further, order dated 05.02.2014 of the trial court would reflect that the report of Jail Doctor, namely, Dr. Sunil Kumar, was on record, wherein he reported to the trial court that the appellant was suffering from mental disease-chronic schizophrenia and suggested for his treatment.

39. Considering the report of the Jail Doctor, an order was duly recorded by the trial court that the provisions of Section



329 CrPC have to be followed with respect to the accused-appellant and also directed the appropriate authorities to take proper steps for treatment of mental disorder of the accused-appellant and further directed to report the matter after his treatment when he regains his mental fitness. The order having come to be forwarded to Superintendent of Jail, Kishanganj for information, the report never thereafter came to be submitted by any of the medical authorities or the jail authorities and it appears that no positive steps in this regard was taken by the trial court. If there was no report of either the jail authorities or the medical authorities and when the matter came to be stayed till a report of fitness of the accused, then the trial court ought not to have proceeded any further in absence of the medical report when the trial of the accused-appellant was already stayed. The rejection of Section 311 CrPC application by the learned trial court also does not appear to be proper when the learned trial court has itself ordered to appoint an Advocate for the accused-appellant through District Legal Services Authority giving a finding while recording his statement under Section 313 CrPC that he has lost his mental balance and he is not able to understand the question, Section 311 CrPC application having been filed so as to re-examine the



accused-appellant who had already been examined during the trial ought not to have been rejected in the interest of justice.

40. The sole issue in this case from the beginning till the conclusion of the trial was the fact that whether the appellant was lunatic or not. The order of the learned trial court having reflected the fact that the appellant was lunatic since before the recording of evidence and till conclusion of the trial and even during the recording of the statement of the accused-appellant under Section 313 CrPC, the learned trial court came to a finding that the accused-appellant was having mental disorder and the reports were on record, the learned trial court should not have proceeded further even after that stage and would have followed the provisions as provided under Chapter XXV CrPC. The mandate of law as decided by this Court and the Hon'ble Apex Court in a catena of decision would clearly show the provisions as contained in Chapter XXV CrPC be strictly followed.

41. In course of hearing of this appeal for suspension of sentence and release on bail, this Court vide order dated 02.09.2025 not only suspended the sentence but also issued the following directions:-

“12. Before the appellant is released, a complete medical check-up of the appellant shall be conducted in the nearby medical college and hospital



and if it is found that he is still mentally unfit, it will be the bounden duty of the State to get the appellant admitted in a hospital where he may receive proper treatment and such cost of treatment shall be borne by the State. His family member/ relatives (if any) shall be informed about his treatment and release and this will be the responsibility of the Jail Superintendent and the District Magistrate, Kishanganj.

13. We call upon the State to submit a comprehensive report pointing out as to why no mental fitness certificate was produced by the prosecution before proceeding with the examination of prosecution witnesses. We would also like to know as to why the accused despite being mentally unfit was not sent to a proper hospital for his further treatment. In this connection, a complete report from the then Jail Superintendent, Kishanganj and the public prosecutor who represented the State be called for and be submitted to this Court within three weeks from today.”

42. Thereafter, we passed the order dated 17.10.2025 which is being reproduced hereunder:-

“In course of hearing of the matter today it transpired that the appellant is still being kept in jail perhaps for the reason that nobody from his family has come to receive him. It has also transpired that from Purnea jail, he is being sent to Government



Medical College and Hospital, Purnea as and when advised by the doctor.

2. Vide our order dated 02.09.2025, we have already directed for suspension of sentence and release of appellant on bail during pendency of the appeal without any bail bond. In such circumstances, his continuance in jail is wholly illegal and in breach of the mandate of the order of this Court.

3. On the next date of hearing, this Court would consider initiating a contempt proceeding against the erring officials for their willful disobedience and disregard shown to our order.

4. This Court directs the Principal District and Sessions Judge, Purnea, to depute the Secretary, District Legal Services Authority to visit the jail premises, meet the appellant and find out his present condition after interaction with him as well as the doctor treating him. The report in this regard be submitted in this Court.

5. The Secretary, District Legal Services Authority shall also meet the family member of the appellant wherever they are living and discuss with them the issues if any which may be existing in the matter of the return of the appellant to his home.

6. The District Magistrate, Kishanganj and Jail Superintendent Kishanganj, who have been made responsible to ensure that the appellant gets admitted in the hospital and receive proper treatment and also to meet the cost of treatment to be borne by the State shall file their respective affidavits as to



why they be not proceeded against for not complying with the order of this Court and despite the order, sending the appellant to jail again and again be not treated as contemptuous.

7. List this matter on 12.11.2025. Let a copy of the order be communicated to the Principal District and Sessions Judge, Purnea, the District Magistrate, Kishanganj and the Jail Superintendent of Kishanganj and Purnea.”

43. Pursuant to our order dated 17.10.2025, the Jail Superintendent, Divisional Jail, Kishanganj and the District Magistrate, Kishanganj filed their respective show-cause. We have considered the same in our order dated 19.11.2025 as under:-

“Heard learned counsel for the appellant and learned Additional Public Prosecutor for the State.

2. In pursuance of this Court's order dated 17.10.2025, the Jail Superintendent, Divisional Jail, Kishanganj and the District Magistrate, Kishanganj have filed their respective show-cause.

3. It appears on going through the records that after finding the seriousness of the order passed by this Court, ultimately, the respondent authorities have acted and what have been found during this exercise, speak of the complete inaction on the part of the Investigating Officer of the case.

4. Now it has been revealed in the communication contained in Letter No. 2834 dated



26.10.2025 (Annexure R-15 series) of the Jail Superintendent, Divisional Jail, Kishanganj that the real name of the appellant is Zahiruddin, Son of Zenuddin, R/o Village-Bhatabadi, P.S.-Bahadurganj, District-Kishanganj. The verification has been done by the Anchala Adhikari, Bahadurganj and Dighal Bank. After the said verification, the appellant (real name Zahiruddin) has been released and handed-over to his sister, namely, Moharni Nisha, Wife of Moinuddin, R/o Village-Teknigarhi, Ward No. 12, Panchayat Lohagadda, P.S.-Modbari, Block-Dighal Bank, District-Kishanganj.

5. It is evident that the whole trial has been conducted without verification of the appellant and this only strengthens our views that expressed in our order dated 02.09.2025.

6. We will consider the show-cause filed on behalf of the Jail Superintendent, Divisional Jail, Kishanganj and the District Magistrate, Kishanganj on the next appointed date.

7. In the meantime, the District Magistrate, Kishanganj and the Superintendent of Police, Kishanganj shall submit a brief report as to why proper verification of the appellant could not be done at the relevant time and who are responsible for this.

8. The District Legal Service Authority, Purnia shall keep on getting report with respect to the appellant through the Para-legal volunteers.

9. The sister of the appellant shall be apprised that she may appear before this Court,



instruct the lawyer representing the appellant through Patna High Court Legal Service Committee and take appropriate steps as may be advised to her.

10. List this matter, under the same heading, on 18.12.2025.

11. In the meantime, the order, as above, shall be complied by the concerned authorities.”

44. This Court has further passed the order dated 18.12.2025, which is being reproduced hereunder:-

“Heard Mr. Prashant Kumar, learned counsel for the appellant and Mr. Ajay Mishra, learned Addl. Public Prosecutor for the State.

2. The sister and the brother-in-law of the appellant have also appeared before this Court and informed that now the appellant is with them. He requires treatment and that treatment is being provided to the appellant with the help of the Government.

3. In the circumstances, which have transpired in this case, we direct listing of this appeal "For Hearing" within top five cases on 10 of February, 2026).

4. Office shall prepare the paper book and circulate the same.

5. Show-cause filed on behalf of the District Magistrate, Kishanganj and the Jail Superintendent, Kishanganj are accepted.”



45. Having given our deepest and anxious consideration on the facts in issue, we find the judgment of conviction dated 17.02.2018 and the order of sentence dated 21.02.2018, passed by the learned Additional Sessions Judge-I, Kishanganj, in Sessions Trial No. 1170/2011, arising out of Bahadurganj P.S. Case No. 106/2011, warrants interference. We also further record a finding that complete miscarriage of justice has been done to the appellant and as such, we set aside the impugned judgment of conviction dated 17.02.2018 and the order of sentence dated 21.02.2018, passed by the learned Additional Sessions Judge-I, Kishanganj, in Sessions Trial No. 1170/2011.

46. This appeal is allowed.

47. The appellant is discharged from the liabilities of his bail bonds.

48. Before parting with the judgment, we record a finding that complete miscarriage of justice has been done with the appellant due to which he has remained in incarceration for a period of about 15 years. Even as the learned trial court came to record a finding in the year 2014 itself that the appellant was a lunatic, proceeding under Chapter XXV CrPC has not been resorted to and moreover, the efforts of his rehabilitation could not be taken and valuable years of the appellant has been lost and still today



perhaps due to lack of treatment and rehabilitation, he may be of unsound mind and a lunatic.

49. Therefore, we deem it fit and proper to direct for award of adequate compensation to the present appellant. The District Legal Services Authority, Kishanganj, shall determine the compensation amount and provide the same to the appellant within eight weeks from the date of communication of a copy of this judgment. The District Magistrate, Kishanganj, shall arrange for proper treatment of the appellant and all expenses in this regard shall be borne by the State.

50. Let a copy of this judgment together with the trial court’s record be sent down to the learned trial court.

(Rajeev Ranjan Prasad, J)

(Praveen Kumar, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.02.2026.
Transmission Date	24.02.2026.

