



2026:DHC:4476-DB



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 07th May, 2026.

Date of Decision: 20th May, 2026.

Uploaded on: 21th May, 2026.

+ CRL.A. 622/2025 & CRL.M.(BAIL) 1000/2025

SANJAY SINGH

.....Appellant

Through: Ms. Aishwarya Rao and Ms. Mansi
Rao, Advocates (M: 9871598522).

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Ritesh Kumar Bahri, APP with
Ms. Divya Yadav & Mr. Lalit Luthra,
Advs.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present appeal has been filed under Section 415 (2) read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter*, 'BNSS') assailing the impugned judgment of conviction and order on sentence dated 30th September, 2024 and 04th January, 2025 respectively passed by the court of Ld. ASJ. West District Tis Hazari Courts, Delhi, whereby the Appellant has been convicted in *Sessions Case No. 339/2020*, arising out of *FIR No. 75/2020* registered at Police Station Mundka, Delhi, under Section 302 of the Indian Penal Code, 1860 (*hereinafter* 'IPC').

2. By the impugned judgment of conviction and order on sentence, the Appellant has been sentenced to undergo rigorous imprisonment for life for the commission of offence punishable under Section 302 of the IPC along



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with a fine of Rs. 50,000/-. In default of payment of the said fine, he has been sentenced to undergo simple imprisonment for a period of 6 months. The Ld. Trial Court further directed that out of the fine amount, Rs. 9,000/- be paid to the prosecution towards trial expenses, and Rs. 41,000/- be paid as compensation to the family/LRs of the deceased, with a further recommendation to the DLSA, West District for additional compensation.

BRIEF FACTS:

3. The prosecution case, in brief, is that on 29th February 2020 at approximately 11:30 AM, at Plot Khasra No. 37/19, near Shani Mandir, Bakkarwala, Baprola Road, VPO Bakkarwala, Delhi, the Appellant/Accused-Sanjay Singh, allegedly caused death of one Amit (hereinafter referred to as the '*deceased*') by repeatedly striking his head and other body parts with a brick, and also allegedly attempted to strangle the deceased. The prosecution case proceeds on the allegation that the deceased Amit and the Appellant/Accused were acquainted with each other and used to consume liquor together.

4. It is not in dispute that the Appellant and the deceased were close friends and were in the habit of consuming liquor together. On 29th February 2020 at about 8:00 AM, the Appellant came to the house of the deceased and took him along to his tenanted room at Bakkarwala for the purpose of consuming liquor together.

5. According to the prosecution's case, the genesis of the fatal incident lay in a trivial altercation between the Appellant and the deceased over the payment for the liquor that had been purchased by them. When the Appellant asked the deceased to pay his share of the amount for the liquor, the deceased



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refused, leading to an altercation. During the course of this altercation, the deceased is stated to have slapped the Appellant, whereupon the Appellant, in a fit of rage, picked up a brick from outside the room and repeatedly struck the deceased on the head with it, causing fatal injuries. Both the Appellant and the deceased were in a state of intoxication at the relevant time.

6. The genesis of the prosecution case lies in the complaint lodged by Sh. Jai Bhagwan (PW-4), who is stated to be the landlord of the Appellant in respect of the tenanted room situated at the aforesaid plot. It is the case of the prosecution that on 29th February 2020 at about 12:00 noon, the Appellant came to the residence of PW-4 in a perplexed condition and made an extra-judicial confession before PW-4 and his father, Sh. Laxman Singh, that he had killed someone during a quarrel at the said plot. PW-4 accompanied Appellant to the tenanted room, which was found locked and was opened by the Appellant himself. Upon entering, PW-4 found the deceased lying in a pool of blood, having sustained injuries on his head, with a blood-stained brick found near the body. Thereafter the police were called, and the Appellant was apprehended at the spot.

7. Further FIR was registered being FIR No. 75/2020 under Section 302 IPC at Police Station Mundka, Delhi, on the basis of the complaint/statement of Sh. Jai Bhagwan (Ex. PW-4/A).

8. The Appellant was arrested on 29th February 2020 itself at the spot by the Investigating Officer-Inspector Bishamber Dayal (PW-20) *vide* Arrest Memo being Ex. PW-4/B. His personal search was conducted (Ex. PW-9/G) and his disclosure statement was recorded (Ex. PW-9/H). The Appellant was medically examined thereafter and was subsequently produced before the Ld. Magistrate, from where he was remanded to judicial custody.



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9. At the place of occurrence, the following case properties were seized by the Investigating Officer: a blood-stained brick (Ex. P-1, seized *vide* Ex. PW-9/A); a blood-stained bed-sheet (Ex. P-3, seized *vide* Ex. PW-9/E); blood-stained earth control samples (Ex. PW-9/B, PW-9/C); blood gauze (Ex. PW-9/D); and the Aadhar Card of the Accused (Ex. PW-9/F).

10. The post-mortem on the body of the deceased was conducted on 1st March 2020 by Dr. Anurag Thapar (PW-15) at Indira Gandhi Hospital, Dwarka, Delhi. The Post-Mortem Report (Ex. PW-15/A) recorded the cause of death as *“combined effect of asphyxia as a result of manual strangulation and cranio-cerebral damage subsequent to blunt force/blunt object impact over the head.”* The injuries were opined to be ante-mortem in nature and the manner of death was opined to be homicidal. The relevant portion of the aforesaid Post-Mortem Report is extracted hereinbelow:

“EXTERNAL EXAMINATION (Injuries etc.):

1. Bruise, reddish, 4x2cm, present on the left forearm.
2. Abrasion, reddish, 6x3cm, present on the left cheek extending to the front of nose.
3. Bruise, reddish, 5x4cm, present on the left face near ear.
4. Laceration, 3x2cmx muscle deep, present on the right middle finger.
5. Multiple reddish bruise, present on the front of chest and front of lower neck, varying in sizes from 5x5cm to 1x1cm.
6. Laceration, 5x2.5cm x bone deep, present on the occiput.
7. Laceration, 8x3cm x bone deep, present on the right eyebrow extending to midline.
8. Fracture dislocation of the mandible and nasal bone.



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9. *Laceration, 2x2cm x bone deep, present behind left ear.*

OPINION: *Death is due to combined effect of asphyxia as a result of manual strangulation and cranio cerebral damage, subsequent to blunt force/blunt object impact over the head, however, blood and viscera have been preserved to rule out any prior intoxication. All injuries are antemortem in nature.*

Manner of death – Homicidal.”

11. Forensic evidence was led through PW-18 (Ms. Manisha Upadhyay, Assistant Director, Biology, FSL, Delhi) and PW-19 (Dr. Kapil Dev Mudgal, Senior Scientific Officer, Chemistry, FSL, Delhi). PW-18 deposed that on 21st July 2020, her office received nine sealed parcels in connection with the present FIR, and that the DNA profile generated from the blood-stained gauze attributed to the deceased (Ex. 10) matched the DNA profile derived from the brick recovered from the scene (Ex. 1), the bed-sheet (Ex. 2), the blood-stained gauze from the place of occurrence (Ex. 3), and significantly, the clothes of the Appellant being one shirt and one *pyjama*/lower (Ex. 6). The FSL Report in this regard being Ex. PW-18/A. PW-19- Dr. Kapil Dev Mudgal further deposed that on 20th July 2020, his office received the viscera exhibits and that examination revealed the presence of ethyl alcohol in the blood of the deceased at 20.6 mg/100 ml, as recorded in FSL Report Ex. PW-19/A.

The said FSL Reports are extracted hereinbelow:

EX. 18/A

***“DESCRIPTION OF ARTICLES CONTAINED
IN PARCEL***

Parcel ‘1’ : One sealed plastic box sealed with the seal of “BDM” containing exhibit ‘1’.



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Exhibit '1' : One dirty dark brown brick.

Parcel '2' : One sealed cloth parcel sealed with the seal of "BDM" containing exhibit '2'.

Exhibit '2' : One bedsheet having dirty blackish brown stains.

Parcel '3' : One sealed plastic container sealed with the seal of "BDM" containing exhibit '3'.

Exhibit '3' : Dirty small dark brown gauze cloth piece described as blood sample on gauze.

Parcel '4' : One sealed plastic container sealed with the seal of "BDM" containing exhibit '4'.

Exhibit '4' : Dirty pieces of cemented material described as blood stained earth control.

Parcel '5' : One sealed plastic container sealed with the seal of "BDM" containing exhibit '5'.

Exhibit '5' : Pieces of cemented material described as earth control.

Parcel '6' : One sealed cloth parcel sealed with the seal of "SGMH MANGOLPURI DELHI" containing exhibits '6a' & '6b'.

Exhibit '6a' : One shirt having few dirty stain.

Exhibit '6b' : One pyjama (lower) having few dirty brown stains.

Parcel '7' : One sealed cloth parcel sealed with the seal of "SGMH MAGOLPURI DELHI" containing exhibit '7'.

Exhibit '7' : Dirty wet foul smelling blackish brown gauze cloth piece kept in a tube described as blood sample on gauze.

Parcel '9' : One sealed polythene sealed with the seal of "SGMH MORTUARY MAGOLPURI DELHI-83" containing exhibits '9a', '9b', '9c' & '9d'.

Exhibit '9a' : One dirty dark brown foul smelling pant's with belt (jean's).

Exhibit '9b' : One dirty dark brown foul smelling T-shirt.



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Exhibit '9c' : One dirty dark brown foul smelling T-shirt (Inner).

Exhibit '9d' : One dirty dark brown foul smelling nikker.

Parcel '10' : One sealed plastic container sealed with the seal of "SGMH MORTUARY MAGOLPURI DELHI-83" containing exhibit '10'.

Exhibit '10' : Dirty brown gauze cloth piece described as blood sample on gauze.

RESULT OF BIOLOGICAL EXAMINATION

- 1. Blood was detected on exhibits '1', '2', '3', '4', '6a', '6b', '7', '9a', '9b', '9c', '9d' & '10'.*
- 2. Blood could not be detected on exhibit '5'.*

DNA EXAMINATION

Exhibit '1' (Brick), exhibit '2' (Bedsheet), exhibit '3' (Blood stained gauze cloth piece), exhibit '4' (Pieces of cemented material), exhibit '6' (Clothes of accused), exhibit '7' (Blood stained gauze cloth piece of accused), exhibit '9' (Clothes of deceased) and exhibit '10' (Blood stained gauze cloth piece of deceased) were subjected to DNA isolation. DNA was isolated from the source of exhibits '1', '2', '3', '4', '6', '7', '9' & '10'. Identifiler plus PCR amplification kit was used for STR amplification and data was analyzed by using Gene-Mapper IDx software. DNA profile was generated from the source of exhibits '1', '2', '3', '6', '9' & '10'. However DNA profile could not be generated from the source of exhibits '4', '7' & '9' which may be due to degradation/inhibition.

RESULT OF DNA EXAMINATION

DNA profile generated from the source of exhibits '10' (Blood stained gauze cloth piece of deceased) is similar with the DNA profile generated from the source of exhibits '1' (Brick from place of occurrence), exhibit '2' (Bedsheet from place of occurrence), exhibit '3' (Blood stained gauze cloth



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piece from place of occurrence) and exhibit '6' (Clothes of accused).

NOTE: Remnants of the exhibits have been sealed with the seal of 'FSL MU DELHI'.

Enclosure: Annexure- Allelic data of exhibits '1', '2', '3', '6' & '10'."

EX. 19/A

RESULTS OF EXAMINATION REPORT

On Chemical, Microscopic, TLC & GC-MS examination, Exhibits '1A', '1B' & '1C' were found to contain 'Ethyl Alcohol'.

(ii) Exhibit '1C' was found to contain 'Ethyl Alcohol' 20.6 mg/100ml of blood.

12. The charge-sheet was filed on 28th May 2020 before the Ld. Duty Metropolitan Magistrate, and cognizance was taken *vide* order dated 15th July 2020. The case was committed to the Court of Sessions *vide* order dated 15th October 2020.

13. Charge for the offence under Section 302 of the IPC was framed against the Appellant on 29th January 2021, to which the Appellant pleaded not guilty and claimed trial.

14. The prosecution examined 21 witnesses in support of its case, including the complainant (PW-4), the widow of the deceased (PW-5), the Investigating Officer (PW-20), the autopsy surgeon (PW-15), the MLC-preparing doctor (PW-16), forensic witnesses (PW-18 and PW-19), the Crime Team In-charge (PW-8) and other police officials. The testimonies of the relevant Prosecution witnesses as recorded by the Ld. Trial Court in the impugned order are reproduced hereinbelow:



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“(ii) PW-2 in his testimony had deposed that on 01/03/2020, he had participated in the inquest proceedings at Sanjay Gandhi Memorial Hospital and he had identified the dead body of his nephew Amit and his statement Ex.PW-2/A was recorded by the IO and he had also signed the inquest Form No. 25.35 Ex.PW-2/B. After post-mortem, dead body was handed over to them for last rituals, which were performed accordingly.

PW-2 was cross-examined by counsel for the accused.

(iv) PW-4 in his testimony had deposed that he is a Government employee and residing at H.No. 283, Village Bakkarwala, Delhi. He is having a plot in Khasra No. 37/19 of about 1200 sq. yards, which is situated at Shani Mandir and he had got constructed 4-5 rooms with fencing on the plot and one room was constructed near the main gate of the plot and the said room was given on rent to accused Sanjay about 10-12 days prior to the incident. On 29/02/2020 at about 12:00 noon, when he was present at his residence with his father Laxman Singh, accused Sanjay came to his house in a perplexed condition and disclosed them that he had killed somebody in a quarrel at the abovestated plot. Initially, they did not believe him but when accused persisted with his version, he alongwith him went to his tenanted room, which was locked and opened by the accused. He found one person lying in pool of blood and was having injuries on his head. He also found one blood stained brick on the spot and the injured was found wearing T-shirt and jeans, whose name was later on revealed by the accused to be Amit. Accused further disclosed him that he had invited Amit to have drinks with him and after having drinks, when accused asked Amit to pay the amount for liquor purchased by him, Amit had



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refused and that resulted an altercation and the deceased slapped the accused and therefore, in a rage, he repeatedly hit on the head of Amit with a brick that he had fetched from outside the room and consequently, Amit fell down on bed and on seeing this, he became perplexed and had come to his house to call him. He had called the police immediately and when police arrived at the spot, he handed over the accused to the police. IO had recorded his statement Ex.PW-4/A. He had shown the spot to the IO and IO had prepared site plan Mark PW-4/PX. Accused was arrested in his presence by the IO vide arrest memo Ex.PW-4/B. IO had seized the brick in his presence. Photographs of the place of occurrence with dead body were taken in his presence. Blood stained bed-sheet was also seized by the IO in his presence. Police had also taken some samples of earth control and same was sealed in his presence. The dead body was removed in his presence by the police and he was told that it was being taken to the hospital. During interrogation of the accused by the police, in his presence, name of the deceased was revealed as Amit.

PW-4 was cross-examined by counsel for the accused.

(v) PW-5 in her testimony had deposed that deceased Amit was her husband and he was labourer by profession. He was a drunkard and used to drink liquor. Accused Sanjay Singh, who was gardener by profession was having a good friendship with her husband and they used to take liquor together and accused used to take Amit to his room at Bakkarwala. On 29/02/2020 at about 8:00 am, accused had come to her house and called her husband and her husband accompanied him. Last time, she saw her husband in the company of accused Sanjay Singh and thereafter, she came to

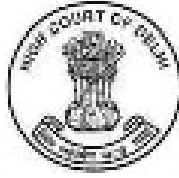


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know through police in the afternoon that her husband had been killed by accused Sanjay Singh at his room. She had gone to the room of the accused and saw her husband Amit lying there in pool of blood and he had bled profusely from his head. She had seen one blood stained brick at the spot and her husband was wearing one T-shirt and Jeans. PW-5 was cross-examined by counsel for the accused.

(ix) PW-9 in his testimony had deposed that on 29/02/2020, he was on emergency duty with HC Pradeep having duty hours from 8 AM to 8 PM. On that day, DD No. 26A regarding quarrel at Bakkarwala Village was marked to HC Pradeep and accordingly, he had accompanied him to the place of information i.e. Khasra No. 37/19, Bakkarwala and at the spot, they found one person lying dead inside the room near the gate of the said plot i.e. over the bedding at the floor of the said room and the name of said deceased was revealed as Amit. Blood was also found lying at the spot and one blood stained brick was also found lying near the body of Amit. On the spot, they met Jai Bhagwan, who had made a call at 100 number and the said Jai Bhagwan had produced accused Sanjay Singh and had also disclosed to them that accused Sanjay Singh had been residing in the said room as tenant and accused had committed the murder of Amit by causing injuries with brick. Seeing the facts and circumstances of the case, HC Pradeep immediately contacted the police station and requested to send the senior police official. Inspector Bishamber Dayal alongwith PSI Uday Singh reached at the spot and in his presence, HC Pradeep had produced the said Jai Bhagwan and accused before Inspector Bishamber Dayal. Inspector Bishamber Dayal had also called the crime team at the spot and Crime Team In-charge had inspected the place of



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occurrence and prepared crime team report. Crime team photographer took photographs of the said body and of the place of occurrence and also videographed the place of occurrence. In his presence, Inspector Bishamber Dayal had lifted the exhibits from the spot i.e. one blood stained brick, one red white check blood stained bed-sheet, earth control and blood sample and also recorded the statement of Jai Bhagwan. Thereafter, on the instructions of Inspector Bishamber, HC Pradeep took the body of Amit to Sanjay Gandhi Memorial Hospital. After some time, HC Pradeep returned back to the spot and handed over the MLC of Amit to Inspector Bishamber Dayal. On the basis of statement of Sh. Jai Bhagwan and facts and circumstances of the case, Inspector Bishamber Dayal had prepared rukka and handed over the same to HC Pradeep, who accordingly went to PS, got the FIR registered, came back to the spot and handed over the copy of FIR and original rukka to IO Inspector Bishamber Dayal. In his presence, IO had sealed the said exhibits with the seal of 'BDM' and seized the same through seizure memos Ex.PW-9/A to Ex.PW-9/E and seal after use was handed over to him. On the spot, Jai Bhagwan had also produced the Aadhar Card of accused Sanjay Singh and IO had seized the same vide seizure memo Ex.PW-9/F and the said Aadhar Card was annexed with the memo. In his presence, IO had also effected the arrest of the accused vide arrest memo Ex.PW-4/B and conducted his personal search vide memo Ex.PW-9/G and also recorded his disclosure statement Ex.PW-9/H. Accused was also taken for his medical examination and after medical examination, the concerned doctor had handed over certain sealed pullandas alongwith sample seal to IO, which IO had seized vide memo Ex.PW-9/I. IO had also recorded his statement.



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PW-9 was cross-examined by counsel for the accused.

(xv) PW-15 in his testimony had deposed that on 01/03/2020, he had conducted the post-mortem on the body of deceased Amit S/o Sh. Om Prakash with the alleged history of being found on 29/02/2020 with injuries at about 12:30 PM. His body was later shifted to SGM hospital mortuary for post-mortem examination. After conducting post-mortem, he had prepared post-mortem report no. 191/20 Ex.PW-15/A and had opined the cause of death to be combined effect of asphyxia as a result of manual strangulation and cranio cerebral damage subsequent to blunt force/blunt object impact over the head. However, he had preserved the blood and viscera to rule out any prior intoxication. He had opined the injuries to be ante-mortem in nature and had also opined the manner of death to be homicidal. After sealing, he had handed over the preserved blood, viscera and sealed clothes to investigating agency alongwith inquest papers and sample seal of department.

PW-15 was cross-examined by counsel for the accused.

(xviii) PW-18 in her testimony had deposed that on 21/07/2020 their office received nine sealed parcels in connection with FIR No. 75/2020 PS Mundka and the said parcels were marked to her for examination purposes. She had checked the said parcels and seals over the said parcels were found intact. Out of the nine parcels, three were sealed clothes parcels, four were sealed plastic containers, one was sealed plastic box and one was sealed polythene. She had opened the said parcels and the material contained therein were marked as Exhibit 1 to Exhibit 7, 9 & 10. She had examined the said material and upon examination, blood was detected on Exhibit 1, 2, 3, 4, 6a, 6b, 7, 9a, 9b, 9c, 9d and exhibit 10, however,



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blood could not be detected on Exhibit 5. The said exhibits were also subjected to DNA examination and upon examination, DNA profile was generated from the source of exhibits 10 i.e. blood stained gauze cloth piece of deceased and was found similar with a DNA profile generated from the source of exhibits 1 i.e. brick from the place of occurrence, Exhibit 2 i.e. bed-sheet from the place of occurrence, exhibit 3 i.e. blood stained gauze cloth piece from the place of occurrence and exhibit 6 i.e. clothes of accused i.e. one shirt and one payjama (lower). After examination, she had prepared FSL report dated 11/06/2021 Ex.PW-18/A. After examination, the remnants of the exhibits were sealed with the seal of FSLMU DELHI and she had also annexed the allelic data Ex.PW-18/B.

PW-18 was cross-examined by counsel for the accused.

(xix) PW-19 in his testimony had deposed that on 20/07/2020, their office received one sealed wooden box in connection with FIR No. 75/2020 PS Mundka, which was marked to him for examination purposes. He had checked the said wooden box and seal over the said wooden box was found intact. He had opened the said wooden box and the same was found containing stomach and piece of small intestine in a jar, pieces of liver, spleen and kidney in another jar and blood sample volume 40 ML approximately kept in another jar. The said jars and material contained in them were marked as Exhibits 1A, 1B and 1C. He had examined the said exhibits and on chemical, microscopic, TLC and GC-MS examination, Exhibit 1A, 1B and 1C were found to contain ethyl alcohol. Exhibit 1C was found to contain ethyl alcohol 20.6 mg/100 ml of blood. After examination, he had prepared FSL report dated 27/10/2020 Ex.PW-19/A and after examination, the



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remnants of the exhibits were sealed with the seal of KDMFSL Delhi.

PW-19 was cross-examined by counsel for the accused.”

15. The Appellant did not lead any defence evidence. The Appellant in his statement recorded under Section 313 of the Cr.P.C., the Appellant denied all allegations, claimed false implication, and stated that on 29th February 2020, he had left for work at about 6:15 AM as a plant-seller on a cycle, and that upon his return at about 12:00 noon, the police were already present outside his room and the body of the deceased was found inside. He further stated that he was unable to pay rent of Rs. 2,800/- for two months to PW-4, implying a motive for false implication.

16. Upon appreciation of the evidence on record, the Ld. Trial Court, *vide* the impugned Judgment dated 30th September 2024, convicted the Appellant under Section 302 IPC, holding that the prosecution had proved its case beyond reasonable doubt on the basis of: (i) last seen theory; (ii) extra-judicial confession; and (iii) a complete chain of circumstantial evidence including recovery of the weapon of offence, DNA matching, and the absence of any explanation by the Appellant

17. *Vide* Order on Sentence dated 4th January 2025, the Appellant was sentenced to Rigorous Imprisonment for life with a fine of Rs. 50,000/-, and in default, Rigorous Imprisonment for six months. The Ld. Trial Court further directed that out of the fine amount, Rs. 9,000/- be paid to the prosecution towards trial expenses, and Rs. 41,000/- be paid as compensation to the family/LRs of the deceased, with a further recommendation to the DLSA, West District for additional compensation. The Ld. Trial Court held as under:



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“Considering the facts, circumstances, submissions made and aggravating and mitigating circumstances, this Court is of the considered opinion that the interest of justice would met if the convict Sanjay Singh is sentenced to undergo rigorous imprisonment for life for the offence u/s. 302 IPC and fine of Rs.50,000/-. In default of payment of fine, rigorous imprisonment for the period of six months.

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In view of the above, it is directed that out of the fine amount of Rs.50,000/-, amount of Rs.9,000/- is awarded to the prosecution towards the expenses incurred by the State on prosecution. Out of the aforesaid remaining fine amount, amount of Rs.41,000/- be paid to the family members/LRs of the deceased as compensation.

Since the paying capacity of the convict is found to be insufficient, it is recommended at this conclusion of trial of present case to District Legal Service Authority for further compensation u/s. 357A (3) Cr.P.C. as this Court is satisfied that aforesaid compensation amount is not adequate to set off the loss suffered by the family members/LRs of the deceased.”

18. Aggrieved by the aforesaid conviction and sentence, the Appellant has preferred the present Criminal Appeal.

SUBMISSIONS MADE ON BEHALF OF THE APPELLANTS:

19. The learned counsel appearing on behalf of the Appellant submits that the impugned judgment and order on sentence are liable to be set aside as the prosecution has failed to establish an unbroken chain of circumstances. It is submitted that the entire prosecution case rests primarily upon an alleged extra-judicial confession said to have been made before PW-4 Jai Bhagwan,



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who is stated to be the landlord of the Appellant, and the said circumstance is inherently unreliable and improbable in the facts of the present case.

20. The learned counsel for Appellant submits that, as per the prosecution version itself, the Appellant allegedly went to PW-4 and disclosed that he had killed the deceased Amit during a quarrel, pursuant to which the police was informed and the Appellant was apprehended. However, it is contended that the relevant DD entries placed on record do not support the said version and, in fact, create serious doubt regarding the prosecution story. Attention of the Court has been drawn to DD No. 26A and DD No. 50B to contend that the initial information received by the police was merely regarding a quarrel near Shani Mandir, Bakkarwala Village and that when the police officials reached the spot, neither PW-4 nor the Appellant was shown to be present there in the manner alleged by the prosecution. It is thus submitted that the alleged extra-judicial confession appears to have been subsequently introduced in order to strengthen the prosecution case.

21. It is further submitted that there is unexplained delay in registration of the FIR. The learned counsel submits that while the incident is alleged to have occurred at about 11:30 AM, the FIR came to be registered only at about 9:45 PM. It is argued that despite the Appellant allegedly remaining present throughout, no satisfactory explanation has been furnished by the prosecution regarding such delay, thereby casting doubt upon the fairness of the investigation and the authenticity of the prosecution version.

22. The learned counsel further submits that the prosecution has failed to establish any direct evidence connecting the Appellant with the commission of the offence. It is contended that there is no eyewitness to the incident and the entire case rests on circumstantial evidence. Though reliance has been



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placed by the prosecution upon the FSL report, learned counsel submits that the clothes allegedly containing blood stains were not seized immediately upon arrest and were, in fact, seized subsequently.

23. The learned counsel further submits that the medical evidence placed on record suffers from material deficiencies. He submits that though the prosecution alleges that the Appellant had sustained injuries and was medically examined, the MLC of the Appellant was not brought on record. It is submitted that the non-production of the said document assumes significance in view of the prosecution allegation regarding a physical altercation between the deceased and the Appellant.

24. It is further submitted that there is no proof on record of proper deposition of the Appellant's clothes in the *Malkhana* following their seizure, which further casts doubt upon the reliability and evidentiary sanctity of the forensic material relied upon by the prosecution.

SUBMISSIONS MADE ON BEHALF OF THE RESPONDENTS:

25. On behalf of the State, Mr. Bahri, Id. APP submits that the evidence on record clearly establishes that the Appellant and the deceased Amit were close friends and were together immediately prior to the incident. Reliance is placed upon the testimony of PW-5, the wife of the deceased, who categorically stated that on the morning of 29th February 2020 at about 8:00 AM, the deceased had left along with the Appellant for consuming liquor and that both of them used to frequently consume alcohol together. It is submitted that the said testimony establishes the circumstance of “last seen together” and forms an important link in the chain of circumstances.

26. It is further submitted that the prosecution case is duly corroborated by



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the testimony of PW-4, who is the landlord of the premises occupied by the Appellant. Learned APP submits that PW-4 has categorically deposed that at about 12:00 noon on the date of the incident, the Appellant came to him in a perplexed condition and disclosed that he had killed a person during a quarrel. It is submitted that PW-4 thereafter accompanied the Appellant to the tenanted room, which was opened by the Appellant himself, where the deceased was found lying in a pool of blood with injuries on his head and a blood-stained brick was also found at the spot.

27. The learned APP submits that the testimony of PW-4 inspires confidence and has remained materially unshaken. It is argued that the said witness had no previous enmity with the Appellant and there was no reason for him to falsely implicate the Appellant in the present case. Attention of the Court has also been drawn to the portion of the testimony wherein PW-4 stated that the Appellant had disclosed that an altercation had taken place regarding payment for the liquor purchased by them and that the deceased had slapped the Appellant, pursuant to which the Appellant repeatedly hit the deceased with a brick in a fit of rage.

28. The learned APP submits that the post-mortem report records multiple ante-mortem injuries, particularly on the head and neck region of the deceased, which are consistent with the use of a blunt object such as the brick recovered from the spot. Reliance is also placed upon the FSL report to contend that the blood found on the brick as well as the blood stains found on the clothes of the Appellant matched with the blood of the deceased. It is thus submitted that the scientific evidence forms a strong incriminating circumstance against the Appellant.

29. The learned APP further submits that the place of occurrence was the



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room occupied by the Appellant himself and the dead body of the deceased was recovered from the said premises. It is submitted that the Appellant has failed to furnish any plausible explanation regarding the circumstances in which the deceased sustained fatal injuries inside the premises occupied by him. According to the learned APP, the said circumstance assumes significance under Section 106 of the Indian Evidence Act, 1872.

30. In response to the submission regarding delay in registration of FIR, learned APP submits that the same is not fatal in the facts of the present case inasmuch as the police machinery was engaged in inspection of the spot, recovery proceedings, and other investigative formalities. It is submitted that mere delay in registration of FIR, in the absence of any prejudice being demonstrated, cannot by itself discredit the otherwise cogent prosecution evidence.

31. The learned APP further submits that even if the incident had arisen out of a sudden quarrel between intoxicated persons, the brutality of the assault cannot be ignored. It is submitted that the deceased had sustained multiple injuries and repeated blows had been inflicted upon vital parts of the body. He submits that the manner of assault and the nature of injuries clearly establish the culpability of the Appellant and the sentence imposed by the Ld. Trial Court cannot be said to be excessive.

ANALYSIS AND FINDINGS:

32. The Court has considered the matter.

33. The evidence led in this matter shows that there is considerable merit in the allegation that the Appellant was present with the deceased, at the time when the incident took place. The wife of the deceased had categorically



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stated that her husband *i.e.*, the deceased, had the habit of consuming liquor with the Appellant. She had seen the Appellant accompany the deceased.

34. It is also established that the Appellant and the deceased were close friends of long standing who regularly consumed liquor together. It is further proved that on 29th February 2020, the Appellant came to the house of the deceased and both of them left together to consume liquor at the Appellant's tenanted room at Bakkarwala, a fact fully supported by the testimony of PW-5, the wife of the deceased.

35. A quarrel appears to have ensued between the Appellant and the deceased as to who would pay for the liquor purchased and consumed by them together. When the Appellant asked the deceased to pay his share, the deceased refused which led to an argument. The deceased is then stated to have slapped the Appellant. In response to this act of provocation the Appellant, in a state of rage, picked up a brick from outside the room and struck the deceased repeatedly. This version emerges directly from the extra-judicial confession as deposed to PW-4 by the Appellant.

36. It is also established on record that both the Appellant and the deceased were in a state of intoxication at the time of the incident. The FSL Report (Ex. PW-19/A), duly proved by PW-19- the Senior Scientific Officer, confirms the presence of ethyl alcohol at 20.6 mg/100 ml of blood of the deceased. PW-4 has himself stated in cross-examination that the Appellant too appeared to be under the influence of liquor. The state of intoxication of both parties is therefore a proved and undisputed circumstance.

37. On the question of the weapon, it is evident that the site was a *katcha* plot with several bricks lying outside the room. The brick used to assault the deceased was not brought to the spot by the Appellant, it was one of the bricks



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lying in the vicinity and was picked up at the spur of the moment. This is a significant circumstance. The absence of a pre-planned weapon speaks directly to the absence of premeditation.

38. The connection of the Appellant to the death of the deceased is, however, not in doubt. The DNA profile of the blood on the brick (Ex. P-1) and the blood spots on the clothes of the Appellant (Ex. 6) have both been shown to match the DNA profile of the deceased, as proved by PW-18 through FSL Report Ex. PW-18/A. The Appellant's presence at the scene, his connection to the weapon of offence, and his role in the death of the deceased is scientifically established beyond any reasonable doubt. This Court, accordingly, does not find merit in the Appellant's defence of *alibi* or the suggestion that he was falsely implicated.

39. The challenge to the credibility of PW-4 on the ground of unpaid rent is equally without substance. PW-4 is a government employee of independent standing, his testimony is consistent and unshaken in material particulars, and the suggestion of bias on account of a pending rent of Rs. 2,800/- does not inspire confidence. The extra-judicial confession made to PW-4 is credible, voluntary, and amply corroborated by the circumstantial, forensic, and medical evidence on record.

40. The real question, therefore, is not whether the Appellant caused the death of the deceased, but whether he did so with the intention required to constitute murder under Section 300 IPC, or whether the act falls short of that threshold.

41. Section 300 of the IPC defines murder and its four clauses being, either an intention to cause death, an intention to cause such bodily injury as the offender knows to be likely to cause death, an intention to cause bodily injury



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sufficient in the ordinary course of nature to cause death, or knowledge that the act is so imminently dangerous that it must in all probability cause death.

42. Section 304 Part II of the IPC, on the other hand, covers a situation where culpable homicide is committed with the knowledge that the act is likely to cause death, but without any intention either to cause death or to cause such bodily injury as is likely to cause death. The difference between the two provisions, in its essence, is the difference between intention and knowledge. Where intention is absent and the act flows from knowledge, tempered by the circumstances of sudden passion, provocation, and intoxication, the offence falls within Section 304 Part II and not Section 302 of the IPC.

43. The Supreme Court has, in many of its judgements, have held that where an act of killing takes place in the heat of the moment arising from a sudden quarrel, without any premeditation, without any prior enmity, and without a pre-planned weapon, the offence is more appropriately one under Section 304 Part II IPC.

44. The Supreme Court in ***Sudam Prabhakar Achat v. State of Maharashtra.***, 2025 SCC OnLine SC 602, held that where an assault occurs suddenly without premeditation and the parties did not bear prior enmity toward each other, it would be inappropriate to attribute the gravest criminal intention to the accused. The Supreme Court in the said case held as under:

“12. From the evidence of the prosecution witnesses itself, it is clear that the place of incident is near the house of accused persons. The possibility of a quarrel taking place on account of previous enmity between the accused persons and the deceased; and in a sudden fight in the heat of the moment, the



appellant along with the co-accused assaulting the deceased cannot be ruled out. It can further be seen that the weapons used are a stick and the blunt side of the axe. These tools are easily available in any agricultural field. It therefore cannot be said that there was any premeditation.

13. It is further to be noted that the appellant is alleged to have used the stick whereas the co-accused is said to have used the blunt side of the axe. If their intention was to kill the deceased, there was no reason as to why the co-accused would not have used the sharp side of the axe. The nature of injury and the evidence of the prosecution witnesses would also not show that the appellant had taken undue advantage or acted in a cruel manner."

45. The circumstances of the case in hand fit squarely within this well-settled principle. The two men were friends. They were drinking together. The quarrel arose without warning over something as trivial as payment for a bottle of liquor. The deceased slapped the Appellant. The Appellant, in a state of intoxication and sudden rage, picked up a brick that was lying outside and struck the deceased. There was no prior plan. The Appellant was not carrying any weapon. There was no motive to kill. There was no intention, in the legal sense of the term, to cause death, but there was knowledge, that striking a person repeatedly on the head with a brick is likely to cause death.

46. It is also relevant to note that Exception 1 to Section 300 of the IPC provides that culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation. The Appellant was slapped by the deceased immediately before the assault, this act of slapping by deceased constitutes sudden and grave provocation in the context of two intoxicated



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individuals engaged in a quarrel. This Court is conscious that Exception 1 to Section 300 of the IPC requires that the provocation should not have been sought or voluntarily provoked by the offender, and that time for passion to cool must not have elapsed. On the facts of this case, the provocation was immediate and the response was instantaneous.

47. The nature of injuries in the present case no doubt indicates that the assault was serious. However, the surrounding circumstances cannot be ignored. The evidence does not suggest that the Appellant had acted in a cruel or unusual manner after any pre-planned design. The occurrence was the result of a sudden altercation between two intoxicated persons over a trivial issue relating to payment for liquor.

48. The Ld. Trial Court, while convicting the Appellant under Section 302 of the IPC, has rightly relied upon the chain of circumstantial evidence to hold that the Appellant was responsible for the death of the deceased. However, in the opinion of this Court, the surrounding circumstances and the genesis of the occurrence were not accorded due weight while determining the nature of the offence.

49. Having considered the entire evidence on record, this Court is of the view that though the Appellant had the knowledge that repeated blows with a brick on the head could likely cause death, the material on record does not establish a deliberate intention to commit murder within the meaning of Section 300 IPC. The present case would therefore fall within the ambit of Section 304 Part II IPC.

CONCLUSION

50. So far as the sentence is concerned, the Appellant was initially



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sentenced to undergo imprisonment for life. The nominal roll placed on record shows that as on 29th September 2025, the Appellant has undergone incarceration for a period of 5 years, 6 months and 21 days.

51. Considering the facts and circumstances of the case, the manner in which the incident occurred, the absence of premeditation, the fact that the occurrence arose out of a sudden quarrel between two intoxicated friends, and the overall circumstances emerging from the record, this Court is of the view that the ends of justice would be met if the sentence awarded to the Appellant is modified and altered.

52. Accordingly, the conviction of the Appellant under Section 302 of the IPC is altered to one under Section 304 Part II of the IPC. The sentence of rigorous imprisonment for life awarded by the Ld. Trial Court is modified and reduced to rigorous imprisonment for a period of eight years. The fine imposed by the Ld. Trial Court shall remain undisturbed.

53. The appeal is accordingly, partly allowed in the above terms. Pending application(s), if any, stands disposed of.

54. A copy of this order be communicated to the concerned Jail Superintendent for necessary compliance and information.

**MADHU JAIN
JUDGE**

**PRATHIBA M. SINGH
JUDGE**

MAY 20, 2026/P/prg