

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3685 of 2025

Arising Out of PS. Case No.-189 Year-2023 Thana- CHENARI District- Rohtas

Nanhak Rai S/O Late Raja Rai R/O- Malhipur, P.S- Chenari, District - Rohtas.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant : Mr. Sanjay Kumar Tiwary, Adv.
For the State : Mrs. Anita Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
CAV JUDGMENT

Date : 22-12-2025

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

2. The present appeal has been directed against
the judgment of conviction dated 31.07.2025 and order of
sentence dated 12.08.2025 passed by learned District and
Additional Sessions Judge-III, Rohtas at Sasaram in Sessions
Trial No. 260 of 2024, arising out of Chenari P.S. Case No. 189
of 2023 whereby and whereunder the appellant has been
convicted for the offence punishable under Section 306 of the
Indian Penal Code and has been sentenced to undergo simple
imprisonment for three years and six months along with fine of
Rs. 5,000/- under the said section. In case of default of payment
of fine, appellant has to undergo further simple imprisonment of
two months.



3. According to written statement given by the informant/PW-2, informant solemnized the marriage of his daughter Neha Kumari four years ago with Nanhak Rai-appellant according to Hindu rites and rituals. It is alleged that after some days, appellant-husband and informant's daughter-wife started quarreling on the issue of dowry which was being informed by informant's daughter. The informant had pacified the dispute on one or two occasions. It is alleged that on 16.06.2023 on the issue of going outside in connection with livelihood, informant's daughter has been killed by the appellant and others at about 10:00 PM regarding which he got information on 17.06.2023 at 6:00 AM. On the aforesaid information, he reached the house of his son-in-law where he found that his daughter was lying dead.

4. On the basis of written statement given by the informant/PW-2, Chenari P.S. Case No. 189 of 2023 dated 17.06.2023 was registered under Sections 304(B)/34 of the IPC. Routine investigation followed. Statement of witnesses came to be recorded and on the completion of investigation, charge sheet has been submitted against the appellant under Section 304(B) of the IPC. Thereafter, the learned trial court took cognizance. The case was committed to the court of



sessions after following due procedure. The learned trial court framed charges against the appellant under Sections 304(B)/34 and 302/34 of the IPC. Charges were read over and explained to the appellant to which he pleaded not guilty and claimed to be tried.

5. In order to bring home guilt of accused person/appellant, prosecution has examined altogether four witnesses. PW-1 Dr. B.K. Pushkar, PW-2 Suresh Rajbhar (informant of the case), PW-3 Sitaram Bind and PW-4 Manita Kumari (I.O. of the case).

6. Prosecution has relied upon following documentary evidence on record:-

Ext. 1- Post mortem report

Ext. P-1-Inquest report

Ext. P-2- Signature of I.O.

on charge sheet.

7. Defence has not produced any oral or documentary evidence. However, defence of the appellant as gathered from the line of cross examination of prosecution witnesses as well as from the statement under Section 313 of the Cr.P.C. is that of total denial.

8. After hearing the parties, the learned trial court convicted the appellant and sentenced him as indicated in the second paragraph of the judgment.



9. Following submissions have been made on behalf of learned counsel for the appellant:-

Learned counsel for the appellant submits that judgment of conviction and order of sentence passed by the trial court is illegal and not supported by any material available on record and same is based on conjectures and surmises. He further submits that during course of trial not a single witness has been examined by the trial court who is the witness of place of occurrence and the Investigating Officer has also not taken pain to examine any witness of alleged place of occurrence. He further submits that PW-1, who is doctor, has stated that deceased died on account of asphyxia due to hanging. Learned counsel for the appellant submitted that PW-2/informant himself admitted in para 19 of the cross examination that 150 villagers were present and they were saying that informant's daughter died by hanging herself. At Para 36, PW-2 has stated that appellant and his family members were not demanded dowry at the time of marriage but later on demand was made but there is no witness in the village regarding the said demand. He further submits that trial court ought to have considered the statement of informant that about 150 people were saying that deceased had hanged herself. He further submits that PW-4/I.O. admitted



that deceased died due to hanging and there was no sign of injury on her body. PW-3 Sitaram Bind not appeared before the trial court for cross examination after giving several opportunities and his statement in examination-in-chief could not be considered. He further submits that from perusal of entire evidence of prosecution witness, it has not been proved that deceased died due to cruelty. He further submits that no complaint was lodged earlier either by the informant or by his family member. The informant himself admitted in his own evidence that no dowry was demanded by the appellant. Then there is no question that demand of dowry at later stage i.e. just after the marriage was made. The trial court ought to have considered that appellant wanted to go outside the village for livelihood but his wife does not want him to go outside the village and on the date of the occurrence appellant went to market to buy something in the meantime, she hanged herself. The trial court held that prosecution has failed to prove the charges under Sections 302, 304(B) of the IPC, hence appellant is acquitted under the said charges but he has been convicted under Section 306 of the IPC. He further submits that the trial court committed serious error as prosecution has completely failed to establish that deceased Neha Kumari had no other



option left rather to take the extreme step for ending her life. It has been submitted that after going through the evidence of all the prosecution witnesses, postmortem report and material available on record, no offence is made out under Section 306 of the IPC and hence, appellant deserves acquittal. He further submits that there are contradictions in the evidence of prosecution witnesses and not a single witness has stated that deceased/victim was instigated to commit suicide and there was no suicide note which clearly negates that appellant is responsible for commission of suicidal act of the deceased. In the light of aforesaid facts and circumstances of the case, impugned judgment of conviction and order of sentence are liable to be set aside.

10. Learned APP for the State has submitted that the concerned court in impugned judgment has recorded the reasoning that in para 15 of deposition of Investigating Officer he has stated that appellant was adamant not to go outside for earning his livelihood despite being continuous request made by the deceased and appellant has taken excuse for not going outside just because for the welfare of his children. Learned APP further submits that the concerned court has acquitted the appellant from the charges under Sections 302/304B of the IPC



as there was nothing on record to prove that deceased was subjected to torture on account of dowry immediately prior to her death but the appellant has been convicted under Section 306 of the IPC and the court has cited the reasoning that despite being request made by the victim-deceased to go outside for earning, the appellant did not go outside due to welfare of the children which is reflected in the evidence of I.O. and on the said version of I.O., the concerned court has interpreted that wife-deceased has taken extreme step to end her life. Learned APP further submitted that after going through the material available on record, the court has passed the judgment of conviction and order of sentence on the basis of material available on record and hence, no interference is needed.

11. The question which arises for consideration is:-

"Whether the appellant has committed the offence punishable under Section 306 of the IPC in the light of given facts and circumstances of the case or not ?"

12. I have perused the impugned judgment, order of trial court and trial court records. I have given my thoughtful consideration to the rival contention made on behalf of the parties as noted above.

13. It is necessary to evaluate, analyze and



screen out the evidences of witnesses adduced before the trial court.

14. PW-2/ Suresh Rajbhar is informant as well as father of the deceased. During examination-in-chief he has stated that his daughter was married with the appellant five years ago. He has improvised his statement that he gave motorcycle and Rs. 90,000/- in cash which was not part of initial version of prosecution story. He has also improvised his statement that 4 to 5 times compromise had taken place. Again he improvised his statement that his daughter was assaulted by the appellant and other. He has again improvised his statement that appellant informed that informant's daughter burnt while cooking. He has also stated that after hearing the noise, informant and 40-50 people went to the sasural of informant's daughter. He has stated that his daughter sustained injury on cheek which was not found in the initial version of prosecution story. He has improvised his earlier statement that there was penetrating wound of knife beside stomach and deceased also sustained injury on the ear. In para 19 of cross examination he has stated that people were telling that his daughter committed suicide by hanging herself. At para 25 he has stated that appellant wanted to go outside but he advised to go with his



family but mother and brother of appellant prevented to do so. He has admitted in para 36 that at the time of marriage no dowry was demanded by the appellant and his family members but later on demand was made.

The evidence of PW-2/informant is full of contradictions and inconsistencies with the initial version of prosecution story. No act of instigation was attributed to the appellant for commission of suicide by the informant's daughter. It has also not come in the evidence of PW-2 that informant's daughter had no other option left but to commit suicide.

15. PW-3/ Sitaram Bind has admitted that marriage of informant's daughter was solemnized with the appellant near about 2-3 years prior to the occurrence. He has stated that informant's daughter lived at her sasural in a better way and appellant came and took informant's daughter and it was also told by the appellant that he and Neha will go outside and work. At para 10 of cross examination he has stated that informant's daughter/deceased did not ever make any grievance against the appellant.

From the evidence of PW-3, it is clear that deceased has not raised any grievance against the appellant and PW-3 has also not stated anything which entails the allegation



made under Section 306 of the IPC.

16. PW-4/ Manita Kumari is investigating officer of the case. She has stated that after taking charge of investigation, she perused the FIR and recorded re-statement of informant and proceeded for place of occurrence. She also recorded the statement of Jayshankar Bind and Sitaram Bind on the place of occurrence. In para 12 of cross examination, she has stated that deceased died on account of hanging and no injury was found on her body and there was no mark of violence on her body and appellant has no criminal antecedent. This witness has stated in para 15 that no witness has given statement regarding the torture and assault and no witness has given statement that appellant had demanded dowry from his wife-deceased. Witnesses have stated that appellant was a poor fellow, he was labourer and appellant was repeatedly told by his wife to go outside for earning but he did not go outside for the sake of his children.

PW-4/ I.O. has stated that no torture or assault was ever made by any prosecution witness. There was no demand of dowry. Nothing has been stated by the I.O. which shows that appellant is responsible for commission of suicide by the deceased rather it was explained that appellant was a poor



fellow, he was labourer and he did not go outside for earning for the sake of his children.

17. PW-1/ Dr. B.K. Pushkar has stated that on 17.06.2023 he was posted at Sadar Hospital as a medical officer and on the same day, he conducted post mortem on the dead body of Neha Kumari (informant's daughter) and found following injuries:-

External Examination:-

1. Bruise black colour of both upper and lower limb, both eye closed and swollen, face black colour; froth coming out from both nostril, abdomen full and distended. A black bruise was found over right cheek size 1/2 inch x 1/2 inch, a black bruise was found over right side of mandible size 1/2 inch x 1/4 inch with no oozing blood.

Local Examination:-

i. Neck- A blackish ligature mark was found high up of neck obliqually towards the both side of mandible up to posterior auricular area of skull where a gap was found over nape of neck of 1/2 inch diameter of ligature mark and superficial skin under the ligature mark hard and leathary.

Dissection:-

i. Skull-Intact bone and membrane intact. Brain substance (meninges intact and congested).

ii. Neck- Subcutaneous tissue under the ligature mark was loosed and muscle of neck was compressed. Muscle over the cartilage was compressed. Large vessel of neck was engorged. Echinosis of muscle was found. Trachea rings compressed antero posteriorly. Epithelium of trachea was hyperemic. Both lungs intact and congested. Pericardium intact both chamber of heart contain blood, stomach contains semi digested food material. Small intestine contain gas and fluid. Large intestine contain gases and faecal material. Liver, spleen and both kidney congested and intact. Urinary bladder contain 50ml of urine. Other genitalia intact.

Cause of death- Asphyxia due to hanging. However, following viscera sent to Patna F.S.L for chemical analysis



separated with Jar containing common salt solution tag and sealed and all viscera put and large bag with tagged and level following viscera namely i. Piece of liver, (ii) Piece of lung (iii) Piece of heart (iv) stomach and its contains (v) spleen (vi) Piece of loop of small intestine (vii) Kidney.

Time elapse since death till P.M examination-6 to 24 hours.

Rigor mortis present both and upper and lower limb.

This P.M report is prepared and written by me and signed by me which I identified and marked as Ext 1.

In the opinion of doctor, cause of death of deceased was asphyxia due to hanging.

18. It is relevant to quote judgment of Hon'ble Supreme Court passed in the case of ***Pinakin Mahipatray Rawal vs State of Gujarat*** reported in ***(2013) 10 SCC 48*** in which at para 25 of the said judgment reference of Section 113-A has been given which reads as under:-

"113-A. Presumption as to abetment of suicide by a married woman-
when the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

Explanation- For the purposes of this section, 'cruelty' shall have the same



meaning as in Section 498-A of the Penal Code, 1860."

Further in para 26 of the said judgment, it has been observed as follows:-

"26. Section 113-A only deals with a presumption which the court may draw in a particular fact situation which may arise when necessary Ingredients in order to attract that provision are established. Criminal law amendment and the rule of procedure was necessitated so as to meet the social challenge of saving the married woman from being ill-treated or forcing to commit suicide by the husband or his relatives, demanding dowry. Legislative mandate of the section is that when a woman commits suicide within seven years of her marriage and it is shown that her husband or any relative of her husband had subjected her to cruelty as per the terms defined in Section 498-A IPC, the court may presume having regard to all other circumstances of the case that such suicide has been abetted by the husband or such person. Though, a presumption could be drawn, the burden of proof of showing that such an offence has been committed by the accused under Section 498-A IPC is on the prosecution. On facts, we have already found that the prosecution has not discharged the burden that A-1 had instigated, conspired or intentionally aided so as to drive the wife to commit suicide or that the alleged extramarital affair was of such a degree which was likely to drive the wife to commit suicide.

19. On the facts, I have already found that prosecution has not discharged the burden in the present case.



PW-4/I.O. has already stated that witnesses have not stated that victim/deceased was being subjected to cruelty, torture and appellant had never demanded any dowry. Then the prosecution has not discharged the burden that appellant had instigated, conspired, intentionally aided so as to drive the wife to commit suicide. Only reason as quoted by the trial court is that wife has taken extreme step for ending her life is that appellant has decided not to go outside for earning despite being the request made by the deceased and appellant has taken the excuse of children.

20. It is also relevant to quote judgment of Hon'ble Supreme Court passed in the case of ***Jayedeeptsinh Pravinsinh Chavda & Ors. vs. State of Gujarat*** passed in ***Criminal Appeal No. of 2024 (arising out of SLP (Crl.) No. 7957 of 2024)*** in which at paragraphs no. 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25, it has been held as follows:-

16. Section 306 of the IPC provides for punishment for the offence of abetment of suicide. It has to be read with Section 107 of the IPC which defines the act of 'abetment'. The provisions read as follows:

"306. Abetment of suicide.- If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

"107. Abetment of a thing.- A person abets



the doing of a thing, who-

First.- Instigates any person to do that thing; or Secondly.-Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.- Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.- A person who by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Explanation 2.- Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitate the commission thereof, is said to aid the doing of that act."

17. Section 306 of the IPC penalizes those who abet the act of suicide by another. For a person to be charged under this section, the prosecution must establish that the accused contributed to the act of suicide by the deceased. This involvement must satisfy one of the three conditions outlined in Section 107 of the IPC. These conditions include the accused instigated or encouraged the individual to commit suicide, conspiring with others to ensure that the act was carried out, or engaging in conduct (or neglecting to act) that directly led to the person taking his/her own life.

18. For a conviction under Section 306 of



*the IPC, it is a well-established legal principle that the presence of clear mens rea-the intention to abet the act-is essential. Mere harassment, by itself, is not sufficient to find an accused guilty of abetting suicide. The prosecution must demonstrate an active or direct action by the accused that led the deceased to take his/her own life. The element of mens rea cannot simply be presumed or inferred; it must be evident and explicitly discernible. Without this, the foundational requirement for establishing abetment under the law is not satisfied, underscoring the necessity of a deliberate and conspicuous intent to provoke or contribute to the act of suicide. The same position was laid down by this Court in **S.S. Chheena v. Vijay Kumar Mahajan**, wherein it was observed that:*

“25. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by the Supreme Court is clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.”

19. To bring a conviction under section 306, IPC it is necessary to establish a clear mens rea to instigate or push the deceased to commit suicide. It requires



certain such act, omission, creation of circumstances, or words which would incite or provoke another person to commit suicide. This Court in the case of **Ramesh Kumar v. State of Chhattisgarh**, defined the word "instigate as under:

"20. Instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation."

20. The essential ingredients to be fulfilled in order to bring a case under Section 306, IPC are:

- i. the abetment;
- ii. the intention of the accused to aid or instigate or abet the deceased to commit suicide.

21. Thus, to bring a case under this provision, it is imperative that the accused intended by their act to instigate the deceased to commit suicide. Thus, in cases of death of a wife, the Court must meticulously examine the facts and



circumstances of the case, as well as assess the evidence presented. It is necessary to determine whether the cruelty or harassment inflicted on the victim left them with no other option but to end their life. In cases of alleged abetment of suicide, there must be concrete proof of either direct or indirect acts of incitement that led to the suicide. Mere allegations of harassment are insufficient to establish guilt. For a conviction, there must be evidence of a positive act by the accused, closely linked to the time of the incident, that compelled or drove the victim to commit suicide.

22. It is essential to establish that the death was a result of suicide and that the accused actively abetted its commission. This can involve instigating the victim or engaging in specific actions that facilitated the act. The prosecution must prove beyond doubt that the accused played a definitive role in the abetment. Without clear evidence of an active role in provoking or assisting the suicide, a conviction under Section 306 IPC cannot be sustained.

23. The act of abetment must be explicitly demonstrated through actions or behaviors of the accused that directly contributed to the victim's decision to take their own life. Harassment, in itself, does not suffice unless it is accompanied by deliberate acts of incitement or facilitation. Furthermore, these actions must be proximate to the time of the suicide, showcasing a clear connection between the accused's behavior and the tragic outcome. It is only through the



establishment of this direct link that a conviction under Section 306 IPC can be justified. The prosecution bears the burden of proving this active involvement to hold the accused accountable for the alleged abetment of suicide. The same position has been laid down by this court in several judgments, such as:

i. M. Mohan v. State;

ii. Amalendu Pal alias Jhantu v. State of West Bengal;

iii. Kamalakar v. State of Karnataka.

24. *Therefore, for a conviction under Section 306 IPC, there must be clear evidence of direct or indirect acts of incitement to commit suicide. The cause of suicide, especially in the context of abetment, involves complex attributes of human behavior and reactions, requiring the Court to rely on cogent and convincing proof of the accused's role in instigating the act. Mere allegations of harassment are not enough unless the accused's actions were so compelling that the victim perceived no alternative but to take their own life. Such actions must also be proximate to the time of the suicide. The Court examines whether the accused's conduct, including provoking, urging, or tarnishing the victim's self-esteem, created an unbearable situation. If the accused's actions were intended only to harass or express anger, they might not meet the threshold for abetment or investigation. Each case demands a careful evaluation of facts, considering the accused's intent and its impact on the victim.*

25. *This Court in Ude Singh v. State of Haryana reported in (2019) 17 SCC 301,*



held that to convict an accused under Section 306 IPC, the intent or mental state to commit the specific crime must be evident when assessing culpability. It was observed as under:

"16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act(s) of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the court would be looking for cogent and convincing proof of the act(s) of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

21. It is also relevant to quote the decision of Hon'ble Supreme Court in the case of ***Abhinav Mohan Delkar vs. The State of Maharashtra & Ors.*** passed in ***Criminal Appeal Nos. 2177-2185 of 2024*** in which at para 19 and 20 it has been held as follows:-



"19. Madan Mohan Singh v. State of Gujarat reported in (2010) 8 SCC 628 was a case in which the accused was alleged to have continuously harassed and insulted the deceased and spoken as to how he was still alive despite the insults levelled. There was also a suicide note in which the deceased, a driver, accused his employer of having driven him to suicide. Despite such an allegation in the suicide note, this Court found that there was absolutely nothing in the suicide note or the F.I.R. which could even distantly be viewed as an offence, much less under Section 306 of the I.P.C.

20. Again, the ingredients under Sections 107 and 306 of the I.P.C. was interpreted by one of us in **Prakash and Ors. v. State of Maharashtra and Anr. reported in 2024 SCC Online SC 3835** in the following manner:

"14. Section 306 read with Section 107 of IPC, has been interpreted, time and again, and its principles are well-established. To attract the offence of abetment to suicide, it is important to establish proof of direct or indirect acts of instigation or incitement of suicide by the accused, which must be in close proximity to the commission of suicide by the deceased. Such instigation or incitement should reveal a clear mens rea to abet the commission of suicide and should put the victim in such a position that he/she would have no other option but to commit suicide.

15. The law on abetment has been crystallised by a plethora of decisions of this Court. Abetment involves a mental process of instigating or intentionally aiding another person to do a particular thing. To bring a charge under Section 306 of the IPC, the act of



abetment would require the positive act of instigating or intentionally aiding another person to commit suicide. Without such mens rea on the part of the accused person being apparent from the face of the record, a charge under the aforesaid Section cannot be sustained. Abetment also requires an active act, direct or indirect, on the part of the accused person which left the deceased with no other option but to commit suicide."

22. In the present case, there was no evidence that the appellant has instigated, conspired, intentionally aided so as to drive the wife to commit suicide and there was no evidence of direct triggering act that left the deceased with no other option but to commit suicide. Neither informant nor any other witness has stated that appellant was instigating or intentionally aiding in the commission of suicide by the victim/deceased. Merely allegation without any positive act of instigation or intentionally aiding cannot attract Section 306 of the IPC. In the present case, the informant/PW-2 has improvised his evidence adduced during course of trial and he has also admitted that at the time of marriage, no demand was made. I.O./PW4 has stated that dowry was not demanded by the appellant. Even no witness has stated that victim was being tortured for dowry rather I.O. has stated that appellant is a poor fellow and he was asked by his wife-deceased to go outside for



earning but appellant has taken plea of children for not going outside. The contention of learned counsel for the appellant is quite convincing in the light of aforesaid facts and circumstances of the case.

23. On all counts from the analysis of evidence of prosecution witnesses as well as material available on record, I find that appellant has not committed any positive act amounting to instigation or intentionally aiding in commission of suicide. In this way, the prosecution has failed to prove its case beyond reasonable doubt. Hence, the judgment of conviction and order of sentence passed by the concerned court are not justified and legal and same is fit to be set aside.

24. In the result, in my view, prosecution case suffers from several infirmities, as noticed above, and it was not a fit case where conviction could have been recorded. The learned trial court fell in error of law as well as appreciation of facts of the case in view of settled criminal jurisprudence. Hence, impugned judgment of conviction and order of sentence are hereby set aside and this appeal stands allowed. Appellant is in custody, he is directed to be released forthwith, if not warranted in any other case.

25. The interlocutory application, if any, also



stands disposed of.

26. Let a copy of this judgment be transmitted to the Superintendent of the concerned jail for compliance and for record.

27. The records of this case be also returned to the concerned trial court forthwith.

(Alok Kumar Pandey, J)

shahzad/-

AFR/NAFR	AFR
CAV DATE	20.11.2025
Uploading Date	22.12.2025
Transmission Date	22.12.2025

