



2026:AHC:172219

Reserved on 08.07.2026

Delivered on 14.08.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2329 of 1983

Mahanand Tiwari

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: A.m. Tripathi
Counsel for Respondent(s)	: A.G.A.

Court No. - 93

HON'BLE SANTOSH RAI, J.

1. Heard Shri Kundan Mishra, learned counsel for appellant no.2 and Shri Purshottam Maurya, learned AGA for the State.
2. This appeal is preferred against the judgment and order dated 21.09.1983, and the sentence order dated 22.09.1983, passed by Sri S.S. Srivastava, Special Judge, Deoria, in S.T. No. 256 of 1976 (State v. Mahanand Tiwari and others), whereby the appellants Mahanand Tiwari, Shradhanand Tiwari, Sheo Harsh and Sheoji Yadav were convicted under Section 147 I.P.C. and under Section 307 I.P.C. read with Section 149 I.P.C., and sentenced to one year's rigorous imprisonment for the offence under Section 147 I.P.C. and three years' rigorous imprisonment for the offence under Section 307 read with Section 149 I.P.C., both sentences to run

concurrently. A co-accused, Tej Narain alias Teju, was extended the benefit of doubt and acquitted by the trial court.

3. It has been brought to the notice of this Court that during the pendency of this appeal, three of the four appellants, namely Mahanand Tiwari, Sheo Harsh and Sheoji Yadav, have since died. The appellant Shradhanand Tiwari alone survives. the appeal, in terms of Section 394(1) Cr.P.C., abated as against Mahanand Tiwari, Sheo Harsh and Sheoji Yadav, earlier by this court. The appeal survives for consideration only qua the appellant Shradhanand Tiwari.

4. The prosecution case, briefly stated, is that the informant Harendra Kumar Tiwari's brother, Batukdeo Tiwari (P.W.1), Manager of Maninath Inter College, Nonapar, since 1969, had strained relations with a co-villager, Parmanand Tiwari, and his family, on account of long-standing litigation, including proceedings under Sections 107/117 Cr.P.C. and a civil dispute concerning the affairs of the College, decided in 1973. On the morning of 20.03.1974, Batukdeo Tiwari, accompanied by his brother Harendra Kumar Tiwari (P.W.2) and one Bhairavnath, reached Nonapar Railway Station to board a local train for Deoria. It is alleged that the appellants, along with the deceased co-accused Paramanand Tiwari and Govind Tiwari, reached the platform armed with lathis, some of which had iron fittings, and that Paramanand

Tiwari was additionally armed with a pistol/revolver. On the instigation of the appellant Mahanand Tiwari to "finish" or kill Batukdeo Tiwari, Paramanand Tiwari fired at him with his pistol, the shot missing its mark, whereafter the assailants surrounded Batukdeo Tiwari and belaboured him with lathis, fracturing his hands, legs and teeth and causing injuries to his chest, back and head. It is alleged that Paramanand Tiwari kept the witnesses at bay by threatening them with his pistol, and that a sum of Rs. 300/- to Rs. 400/- was removed from the injured's pocket during the assault. The assailants fled towards the east upon the arrival of the local train. Batukdeo Tiwari was taken by his brother, first to Bhatni and thereafter to the District Combined Hospital, Deoria, where he was admitted in a serious condition.

5. On account of his preoccupation with his brother's treatment, Harendra Kumar Tiwari lodged the written report (Ex. Ka-1) at Police Station Kotwali, Deoria, on 20.03.1974 at 7.15 p.m., on the basis of which a case was registered under Sections 395/397 I.P.C. The papers were transmitted to the G.R.P., Bhatni, where the case came to be registered as Crime No. 41 under Sections 147, 323, 325 and 379 I.P.C. and Section 120 of the Railway Act. Upon completion of investigation, a chargesheet was submitted on 30.05.1974 under the aforesaid sections. The case, initially committed to the Court of Session for the offence under Section 395

I.P.C., proceeded to trial, and charges under Sections 147 and 307 read with Section 149 I.P.C. were ultimately framed on 25.02.1980. During the pendency of the trial, the co-accused Paramanand Tiwari and Govind Tiwari died, and the proceedings abated as against them.

6. The prosecution examined seven witnesses. P.W.1 Batukdeo Tiwari, the injured, deposed in detail as to the background of enmity, the presence of the appellants and the deceased co-accused at the spot, the firing by Paramanand Tiwari, the instigation by Mahanand Tiwari, and the assault upon him by lathi blows, resulting in his becoming unconscious. P.W.2 Harendra Kumar Tiwari, the informant, corroborated the presence of the accused persons armed with lathis and a firearm, the instigation by Mahanand Tiwari to kill, and the assault. He proved the written report Ex. Ka-1. P.W.3 Durgasaran Tiwari, an independent witness, corroborated the occurrence, but in his examination-in-chief stated that the acquitted accused Tej Narain alias Teju was merely standing near the spot and that he had not seen him belabouring Batukdeo Tiwari, a circumstance which led the trial court to extend the benefit of doubt to Teju alone. His testimony otherwise implicated the appellants. P.W.4 Lal Bachan Singh (Head Moharrir, G.R.P., Bhatni) and P.W.7 S.I. Jagdish Misra (Investigating Officer) proved the formal aspects of the General Diary entries, the site plan (Ex.

Ka-8), and the recovery and sealing of a blood-stained piece of the platform (Ex. Ka-9). P.W.5 Kunj Bihari Singh (X-Ray Technician) proved the X-ray plates and report (Ex. Ka-3) showing fractures of the skull, right forearm, left forearm and right leg. P.W.6 Dr. J.K. Saxena, Dental Surgeon, proved the injury report of Dr. T.P. Sharma (since deceased) (Ex. Ka-5), recording sixteen injuries on the person of Batukdeo Tiwari, including a compound fracture of the left ulna and radius, a fracture of the right zygomatic arch, and multiple lacerated wounds on the head, face and leg, all opined to be fresh and caused by a blunt object, as well as his own findings (Ex. Ka-4) of five injuries to the mouth, including a fracture of the right maxilla.

7. The appellants, in their statements, denied the prosecution allegations and pleaded false implication on account of the pre-existing enmity referred to above. In his statement recorded under Section 313 Cr.P.C. during the trial, the appellant Shradhanand Tiwari stated his age as about 45 years. The appellant Mahanand Tiwari additionally stated that he was employed as a Ticket Collector in the Railways. No evidence was led in defence.

8. On an appraisal of the evidence, the trial court held that the prosecution had proved its case beyond reasonable doubt against the appellants Mahanand Tiwari, Shradhanand Tiwari, Sheo Harsh and Sheoji Yadav, and convicted and sentenced them as noted above,

while extending the benefit of doubt to Tej Narain alias Teju on the ground of the specific exculpatory statement of P.W.3 as regards his individual role. Notably, although the medical evidence disclosed 'sixteen distinct injuries' on the person of P.W.1 (Ex. Ka-5), including two compound/suspected fractures of the limbs, a fracture of the zygomatic arch, and multiple lacerated wounds to the head and face, the trial court, having regard to the fact that the injuries were caused by lathis alone (the pistol shot having missed) and to the delay of over nine and a half years in the disposal of the trial, imposed a sentence of only three years' rigorous imprisonment for the substantive offence under Section 307 read with Section 149 I.P.C., which is at the very lower end of the range permissible for that offence.

9. Learned counsel for the surviving appellant, Shradhanand Tiwari, has assailed the conviction principally on the grounds that: (i) the occurrence is rooted in long-standing civil and criminal litigation between the families, rendering false implication a real possibility; (ii) there was delay in lodging the first information report; (iii) the role attributed to Shradhanand Tiwari is general and omnibus, he having been named as one of a group that arrived armed with a lathi and joined in the assault, without attribution of any specific, individuated overt act of the kind attributed to Mahanand Tiwari (instigation), Paramanand Tiwari (firing) and

Sheo Harsh (the first lathi blow); and (iv) given the acquittal of the co-accused Tej Narain alias Teju on facts of a broadly similar character, the appellant is entitled to a similar benefit.

10. Learned A.G.A. for the State supports the conviction, pointing out that the presence of Shradhanand Tiwari at the spot, armed with a lathi, as a member of the unlawful assembly, stands consistently established through the testimony of P.W.1, P.W.2 and P.W.3, none of whom made any exculpatory statement in his favour comparable to that made in favour of Tej Narain alias Teju; that his case is accordingly distinguishable from that of the acquitted accused; and that once membership of an unlawful assembly sharing the common object of causing grievous hurt to Batukdeo Tiwari is established, constructive liability under Section 149 I.P.C. attaches irrespective of proof of a discrete individual act of violence.

11. Having examined the record, this Court finds no infirmity in the appreciation of evidence by the trial court insofar as the appellant Shradhanand Tiwari is concerned. The evidence of P.W.1, P.W.2 and P.W.3 is consistent as to his presence at the spot, armed with a lathi, as part of the group that surrounded and assaulted Batukdeo Tiwari pursuant to the common object earlier declared by Mahanand Tiwari. Unlike the case of Tej Narain alias Teju, no witness has stated that Shradhanand Tiwari merely stood by without participating. The benefit extended to Teju rested on a specific,

positive exculpatory statement by P.W.3 as to him alone, and cannot on parity be extended to an appellant against whom no such statement exists. The ocular evidence stands amply corroborated by the medical evidence of P.W.5 and P.W.6 and the injury reports (Ex. Ka-3, Ex. Ka-4 and Ex. Ka-5), which establish that Batukdeo Tiwari sustained sixteen fresh injuries, including compound and other fractures, caused by blunt force consistent with a sustained assault by more than one assailant using lathis. The plea of false implication on account of prior enmity does not, without more, displace direct and corroborated ocular testimony, if anything, the existence of a motive lends assurance to, rather than detracts from, the prosecution case. The delay in lodging the F.I.R. stands satisfactorily explained by P.W.2's preoccupation with obtaining emergency treatment for his gravely injured brother, and does not affect the substratum of the prosecution case.

12. Once it is found, as this Court finds that Shradhanand Tiwari was a member of an unlawful assembly whose common object, manifested through the prior declaration of Mahanand Tiwari and the concerted, simultaneous assault that followed, was to cause grievous hurt to Batukdeo Tiwari, his conviction under Section 147 I.P.C., and under Section 307 read with Section 149 I.P.C., is well founded and calls for no interference. The appeal, to the extent it challenges the conviction, therefore fails.

13. Sections 4 and 5 of the Probation of Offenders Act, 1958 are reproduced below for ready reference:

“4. Power of court to release certain offenders on probation of good conduct.— (1) When any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him at once to any punishment direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period, not exceeding three years, as the court may direct, and in the meantime to keep the peace and be of good behaviour:

Provided that the court shall not direct such release of an offender unless it is satisfied that the offender or his surety, if any, has a fixed place of abode or regular occupation in the place over which the court exercises jurisdiction or in which the offender is likely to live during the period for which he enters into the bond.

(2) Before making any order under sub-section (1), the court shall take into consideration the report, if any, of the probation officer concerned in relation to the case.

(3) When an order under sub-section (1) is made, the court may, if it is of opinion that in the interests of the offender and of the public it is expedient so to do, in addition pass a supervision order directing that the offender shall remain under the supervision of a probation officer named in the order during such period, not being less than one year, as may be specified therein, and may in such supervision order impose such conditions as it deems necessary for the due supervision of the offender.

(4) The court making a supervision order under sub-section (3) shall require the offender, before he is released, to enter into a bond, with or without sureties, to observe the conditions specified in such order and such additional conditions with respect to residence, abstention from

intoxicants or any other matter as the court may, having regard to the particular circumstances, consider fit to impose for preventing a repetition of the same offence or a commission of other offences by the offender.

(5) The court making a supervision order under sub-section (3) shall explain to the offender the terms and conditions of the order and shall forthwith furnish one copy of the supervision order to each of the offenders, the sureties, if any, and the probation officer concerned.

5. Power of court to require released offenders to pay compensation and costs.—(1) The court directing the release of an offender under section 3 or section 4, may, if it thinks fit, make at the same time a further order directing him to pay—

(a) such compensation as the court thinks reasonable for loss or injury caused to any person by the commission of the offence; and

(b) such costs of the proceedings as the court thinks reasonable.

(2) The amount ordered to be paid under sub-section (1) may be recovered as a fine in accordance with the provisions of sections 386 and 387 of the Code.

(3) A civil court trying any suit, arising out of the same matter for which the offender is prosecuted, shall take into account any amount paid or recovered as compensation under sub-section (1) in awarding damages.”

14. In *Sitaram Paswan and Another vs. State of Bihar*, (2005) 13

SCC 110, the Apex Court has held as under:

“For exercising the power which is discretionary, the court has to consider the circumstances of the case, the nature of the offence and the character of the offender. While considering the nature of the offence, the court must take a realistic view of the gravity of the offence, the impact which the offence had on the victim. The benefit available to the accused under Section 4 of the Probation of Offenders Act is subject to the limitation embodied in the provisions and the word "may" clearly indicates that the discretion vests

with the court whether to release the offender in exercise of the powers under Section 3 or 4 of the Probation of Offenders Act, having regard to the nature of the offence and the character of the offender and overall circumstances of the case. The powers under Section 4 of the Probation of Offenders Act vest with the court when any person is found guilty of the offence committed, not punishable with death or imprisonment for life. This power can be exercised by the courts while finding the person guilty and if the court thinks that having regard to the circumstances of the case, including the nature of the offence and the character of the offender, benefit should be extended to the accused, the power can be exercised by the court even at the appellate or revisional stage and also by this Court while hearing the appeal under Article 136 of the Constitution.”

15. In *Lakhanlal alias Lakhan Singh vs. State of Madhya Pradesh*, (2021) 6 SCC 100, the Apex Court held as under:

“10. A three-Judge Bench of this Court in *Rattan Lal v. State of Punjab*, AIR 1965 SC 444, while examining the provisions of the 1958 Act held that in case the offenders are below 21 years, an injunction is issued to the Court not to sentence them to imprisonment unless it is satisfied that having regard to the circumstances of the case, it is not desirable to deal with them under Sections 3 and 4 of the 1958 Act but in respect of offenders who were above age of 21 years, the Court has absolute discretion to release such offenders either after admonition or on probation of good conduct. The Court held as under:

"4. The Act is a milestone in the progress of the modern liberal trend of reform in the field of penology. It is the result of the recognition of the doctrine that the object of criminal law is more to reform the individual offender than to punish him. Broadly stated, the Act distinguishes offenders below 21 years of age and those above that age, and offenders who are guilty of having committed an offence punishable with death or imprisonment for life and those who are guilty of a lesser offence. While in the case of offenders who are above the age of 21 years, absolute discretion is given to the

court to release them after admonition or on probation of good conduct, subject to the conditions laid down in the appropriate provisions of the Act, in the case of offenders below the age of 21 years an injunction is issued to the court not to sentence them to imprisonment unless it is satisfied that, having regard to the circumstances of the case, including the nature of the offence and the character of the offenders, it is not desirable to deal with them under Sections 3 and 4 of the Act."

11. This Court in *Jugal Kishore Prasad v. State of Bihar*, (1972) 2 SCC 633 explained the rationale of the provision as to prevent the conversion of youthful offenders into obdurate criminals as a result of their association with hardened criminals of mature age in case the youthful offenders are sentenced to undergo imprisonment in jail. The Court held as under:

"6. The Probation of Offenders Act was enacted in 1958 with a view to provide for the release of offenders of certain categories on probation or after due admonition and for matters connected therewith. The object of the Act is to prevent the conversion of youthful offenders into obdurate criminals as a result of their association with hardened criminals of mature age in case the youthful offenders are sentenced to undergo imprisonment in jail. The above object is in consonance with the present trend in the field of penology, according to which effort should be made to bring about correction and reformation of the individual offenders and not to resort to retributive justice. Modern criminal jurisprudence recognises that no one is a born criminal and that a good many crimes are the product of socio-economic milieu. Although not much can be done for hardened criminals, considerable stress has been laid on bringing about reform of young offenders not guilty of very serious offences and of preventing their association with hardened criminals. The Act gives statutory recognition to the above objective. It is, therefore, provided that youthful offenders should not be sent to jail, except in certain circumstances.

Before, however, the benefit of the Act can be invoked, it has to be shown that the convicted person even though less than 21 years of age, is not guilty of an offence punishable with imprisonment for life. This is clear from the language of Section 6 of the Act.""

16. In **Mohd. Hashim vs. State of Uttar Pradesh and Others**, (2017) 2 SCC 198, the Apex reiterated the exercise of discretionary power of the court under Probation of Offenders Act as under:

"21. In this regard, it is also seemly to refer to other authorities to highlight how the discretion vested in a court under the PO Act is to be exercised. In *Ram Parkash v. State of H.P.*, (1972) 4 SCC 46, while dealing with Section 4 of the PO Act in the context of the Prevention of Food Adulteration Act, 1954, the Court opined that the word "may" used in Section 4 of the PO Act does not mean "must". On the contrary, as has been held in the said authority, it has been made clear in categorical terms that the provisions of the PO Act distinguish offenders below 21 years of age and those above that age and offenders who are guilty of committing an offence punishable with death or imprisonment for life and those who are guilty of a lesser offence. Thereafter, the Court has proceeded to observe:

"7.... While in the case of offenders who are above the age of 21 years. absolute discretion is given to the court to release them after admonition or on probation of good conduct in the case of offenders below the age of 21 years an injunction is issued to the Court not to sentence them to imprisonment unless it is satisfied that having regard to the circumstances of the case, including the nature of the offence and the character of the offenders, it is not desirable to deal with them under Sections 3 and 4 of the Act. (*Rattan Lal v. State of Punjab*, AIR 1965 SC 444 and *Ramji Missar v. State of Bihar*, AIR 1963 SC 1088.)"

Be it noted, in the said case, keeping in view the offence under the Prevention of Food Adulteration Act, 1954, the

Court declined to confer the benefit under Section 4 of the PO Act.

22. We have referred to the aforesaid authority to stress the point that the court before exercising the power under Section 4 of the PO Act has to keep in view the nature of offence and the conditions incorporated under Section 4 of the PO Act. Be it stated in *Dalbir Singh v. State of Haryana*, (2000) 5 SCC 82, it has been held that Parliament has made it clear that only if the Court forms the opinion that it is expedient to release the convict on probation for the good conduct regard being had to the circumstances of the case and one of the circumstances which cannot be sidelined in forming the said opinion is "the nature of the offence". The Court has further opined that though the discretion has been vested in the court to decide when and how the court should form such opinion, yet the provision itself provides sufficient indication that releasing the convicted person on probation of good conduct must appear to the Court to be expedient. Explaining the word "expedient", the Court held thus:

"9. ... The word "expedient" had been thoughtfully employed by Parliament in the section so as to mean it as "apt and suitable to the end in view". In Black's Law Dictionary the word "expedient" is defined as "suitable and appropriate for accomplishment of a specified object" besides the other meaning referred to earlier. In *State of Gujarat v. Jamnadas G. Pabril*, (1975) 1 SCC 138, a two-Judge Bench of this Court has considered the word "expedient". The learned Judges have observed in para 21 thus:

21.... Again, the word "expedient" used in this provision, has several shades of meaning. In one dictionary sense, "expedient" (adj.) means "apt and suitable to the end in view", "practical and efficient": "politic"; "profitable"; "advisable", "fit, proper and suitable to the circumstances of the case". In another shade, it means a device "characterised by mere utility rather than principle, conducive to special advantage rather than to what is universally right" (see Webster's New International Dictionary)'.

10. It was then held that the court must construe the said word in keeping with the context and object of the provision in its widest amplitude. Here the word "expedient" is used in Section 4 of the PO Act in the context of casting a duty on the court to take into account "the circumstances of the case including the nature of the offence...". This means Section 4 can be resorted to when the court considers the circumstances of the case, particularly the nature of the offence, and the court forms its opinion that it is suitable and appropriate for accomplishing a specified object that the offender can be released on probation of good conduct."

17. In Chellammal and Another vs. State represented by the Inspector of Police, 2025 LiveLaw (SC) 461, where the Sessions Judge has acquitted the appellants (mother-in-law and husband) of the charge under Section 304-B IPC but convicted them under Section 498-A, the Apex Court has held as under:

“Summing up the legal position, it can be said that while an offender cannot seek an order for grant of probation as a matter of right but having noticed the object that the statutory provisions seek to achieve by grant of probation and the several decisions of this Court on the point of applicability of Section 4 of the Probation Act, we hold that, unless applicability is excluded, in a case where the circumstances stated in subsection (1) of Section 4 of the Probation Act are attracted, the court has no discretion to omit from its consideration release of the offender on probation; on the contrary, a mandatory duty is cast upon the court to consider whether the case before it warrants releasing the offender upon fulfilment of the stated circumstances. The question of grant of probation could be decided either way. In the event, the court in its discretion decides to extend the benefit of probation, it may upon considering the report of the probation officer impose such conditions as deemed just and proper. However, if the

answer be in the negative, it would only be just and proper for the court to record the reasons therefor.”

18. One aspect requires notice. It has been pointed out that the trial court, while sentencing the appellant, did not impose any sentence of fine. Section 307 IPC renders an offender "liable to fine" in addition to imprisonment. The imposition of fine under this provision is a mandatory concomitant of the sentence of imprisonment. Where the IPC provision prescribes punishment in the form: **"....shall be punished with imprisonment and shall also be liable to fine"**, or **"....with imprisonment and fine"**, the trial court is expected to impose fine also. Failure to impose fine amounts to an error in sentencing. The absence of fine, under section 307 IPC therefore, by itself constitute an infirmity in the sentence as recorded. It may further be noted that neither the State nor the complainant has preferred any appeal or revision under Section 377 Cr.P.C. seeking enhancement of the sentence by imposition of a fine. In an appeal preferred solely by the convict under Section 374 Cr.P.C., this Court, exercising jurisdiction under Section 386 Cr.P.C., cannot enhance the sentence to the appellant's prejudice in the absence of a cross- appeal or notice for enhancement. No order is, therefore, called for on this count, and the sentence as awarded by the trial court is maintained in its entirety.

19. On the question of sentence, however, the peculiar facts of this case require separate and anxious consideration. The

occurrence is of 20.03.1974. The appellant Shradhanand Tiwari gave his age as about 45 years in his statement recorded under Section 313 Cr.P.C. at the trial, which concluded in September 1983. He is accordingly presently about 88 years of age. This appeal has remained pending before this Court for approximately 43 years, through no fault attributable to the appellant, and during this period his three co-appellants have died. It is also relevant, though not determinative of guilt, that despite the medical evidence disclosing sixteen injuries on the person of P.W.1, the trial court itself considered it appropriate to impose a sentence of only three years' rigorous imprisonment as the maximum substantive sentence, viewing the offence, on its own facts, as falling short of the gravest category of assaults punishable under Section 307 I.P.C. Having regard to (i) the extraordinary and inordinate delay of over four decades in the final disposal of this appeal, wholly unaccompanied by any allegation of misconduct on bail; (ii) the advanced age and infirmity that must ordinarily attend a person of about 88 years; (iii) the fact that the appellant is a first-time appellant before this Court with no allegation of any subsequent offence; and (iv) the moderate sentence itself imposed by the trial court, this Court is satisfied that it would neither serve any penal purpose nor be in the interest of justice to now require the appellant, at this stage of his life, to undergo incarceration. This Court accordingly considers it

appropriate to invoke Section 4 of the Probation of Offenders Act, 1958, and to release the appellant Shradhanand Tiwari on probation of good conduct, in lieu of sentencing him to imprisonment, notwithstanding his conviction under Section 307 read with Section 149 I.P.C., since the sentence actually called for and imposed in the facts of this case is a term of years and not imprisonment for life.

20. Simultaneously, having regard to the injuries admittedly suffered by P.W.1 Batukdeo Tiwari, this Court considers it necessary, in exercise of the power under Section 5 of the Probation of Offenders Act, 1958, to direct the appellant to pay compensation for the loss and injury caused by the offence, so that the release on probation is not treated as an unconditional exoneration of consequence.

21. Thus, in view of the above specific facts and circumstances, it would be just and proper to release the accused-appellant on probation. The appeal is, thus, **partly allowed** with modification in sentence. The conviction of the appellant Shradhanand Tiwari under Sections 147 and 307 IPC read with Section 149 IPC is hereby affirmed. However, the sentence of three years' rigorous imprisonment is set aside.

22. In view of the modification of sentence and release of the appellant on probation, the bail bonds and sureties furnished earlier during trial/appeal shall stand discharged.

23. Let the accused-appellant **Shradhanand Tiwari** be released on probation under Section 4 of the Probation of Offenders Act, 1958, subject to the following conditions:

(i) The accused-appellant shall execute a 'fresh' personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand) with one surety of the like amount to the satisfaction of the court concerned for a period of one year with an undertaking that he shall maintain peace and good behaviour and will not involve in any criminal activity.

(ii) Invoking Section 5 of the Probation of Offenders Act, the appellant shall pay compensation of Rs.35,000/- (Rupees Thirty Five Thousand) to the victim within a period of one month from today. In case of death of injured/victim, the appellant shall pay the same to his legal representatives.

(iii) The appellant shall deposit above compensation amount before the trial court concerned within stipulated period and the trial court, after notice and verification, shall give the amount to the victim(s)/his legal heirs through bank accounts.

(iv) In the event of breach of any of the aforesaid conditions, the accused-appellant shall be liable to undergo the sentence as awarded by the trial court to serve the original sentence.

24. Trial court shall ensure compliance and seek report from the Probation Officer for supervision.

25. The trial court is directed to submit its compliance report *within two months* from the date of receipt of this order. Furthermore, the registry is also directed to place the compliance report on record.

26. The appellant is directed to appear before the trial court *within two weeks from today* to furnish the requisite bonds. In case of default, the trial court shall be at liberty to proceed in accordance with law, including issuance of coercive process.

27. Let a copy of this judgment be transmitted forthwith to the trial court concerned along with trial court record for compliance.

28. The Registrar (Compliance) is also directed to serve a copy of this order within three days by FAX/e-mail to the concerned court through District & Sessions Judge, Deoria for compliance.

(Santosh Rai,J.)

August 14, 2026

Ankit.