HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Revision Petition No. 1037/2007
CNR: RJHC020138242007 | URN: CRLR / 2056U / 2007

Nisar S/o Umardaraj, R/O Village Sultanpur, Police Station, Sultanpur, Distt. Kota (Raj.)

----Petitioner

Versus

State of Rajasthan through P.P.

----Respondent

For Petitioner(s)	:	Mr. Govind Choudhary
For Respondent(s)	:	Mr. Vijay Singh Yadav, Addl. G.A.

HON'BLE MR. JUSTICE BHUWAN GOYAL

Judgment

24/07/2026

1. The present revision petition under Section 397 read with Section 401 of the Code of Criminal Procedure has been filed by the accused-petitioner – Nisar against Judgment and Order dated 23.04.2007 passed by Additional Sessions Judge no. 2, Kota (Raj.) (hereinafter referred to as "appellate court") in Criminal Appeal No. 60/2006 (Nisar vs. State of Rajasthan) vide which criminal appeal filed by the accused-petitioner has been dismissed and the Judgment and Order dated 20.04.2006 passed by Chief Judicial Magistrate, Kota (hereinafter referred to as "trial court") in Criminal Regular Case no. 192/2001 (State of Rajasthan vs. Nisar) whereby the trial court while acquitting the accused petitioner for the offence under section 4/25 of Arms Act, convicted and sentenced him for the offence under Sections 326 & 324 of I.P.C. as indicated below has been affirmed:-

offence	**sentence**	**fine**	**sentence in default on payment of fine**
u/s 324 IPC	To undergo 1 year R.I.	Rs. 1000/-	To further undergo 1 month imprisonment
u/s 326 IPC	To undergo 4 years R.I.	Rs. 1000/-	To further undergo 1 month imprisonment
(Both sentences were ordered to run concurrently)			

2. Facts of the case in short are that on 29.11.2000 at around 12.45 PM, the complainant- Mhd. Salim submitted a *Parcha Bayan* (Ex. P/3) in Male Surgical Ward of M.B.S Hospital to the effect that on that day at around 8.00 AM, when he was returning from school to his house, Nisar was standing covering him with shawl, who obstructed him and in order to kill attacked on him with a sword due to which he sustained injuries on his neck, nose, ribs and both legs. He was rescued by Khalik and Mustkim and taken to the hospital. On the basis of said parcha bayan, police registered FIR No. 342/2000 at Police Station Sultanpur, District Kota(Rural) for the offence under sections 341, 323, 307 IPC. After completing the investigation, the police submitted the challan against accused-petitioner for the offence under Sections 307, 341, 323, 324 and 326 of IPC before the concerned court. The court concerned took cognizance and committed the case to the court of Sessions. Thereafter, the Sessions Court having found that the case did not travel beyond sections 324 and 326 IPC sent the matter to Chief Judicial Magistrate under Section 228 Cr.P.C. The trial court framed charges against the accused-petitioner for

the offence under section 324 & 326 IPC and section 4/25 Arms Act, who denied the same and claimed for trial. After conclusion of trial, the trial court passed judgment and order dated 20.04.2006 whereby the trial court acquitted him for the offence under section 4/25 of Arms Act but convicted and sentenced him for the offence under Sections 324 & 326 of I.P.C. as indicated above. Thereafter, the petitioner filed an appeal and the appellate court vide its judgment dated 23.04.2007 dismissed the appeal and affirmed the judgment dated 20.04.2006 passed by the trial court. Hence, this criminal revision petition has been preferred by the accused-petitioner.

3. Heard learned counsel for the parties.

4. After arguing the matter on merits at some length, learned counsel for the accused-petitioner does not wish to press instant revision petition challenging judgments passed by the courts below qua conviction and prefers to make submissions on the point of sentence only.

5. Learned counsel for the accused-petitioner has submitted that incident in the present case took place way back in the year 2000 i.e. around 26 years ago; accused-petitioner was 27 years of age at the time of incident and now he is around 53 years old and facing agony of trial for the past about 26 years; accused-petitioner who is sole bread earner in the family, belongs to poor strata of society and remained in police and judicial custody for a period of 1 year, 1 month and 18 days and there is no previous conviction recorded against the accused-petitioner, therefore, he prays that ends of justice would meet if a lenient view is taken in

the matter and sentence of imprisonment awarded to the accused-petitioner is reduced to the period already undergone by him.

6. Learned counsel for the accused-petitioner has relied upon the judgments of Hon'ble Supreme Court in the cases of ***Naib Singh vs. State of Punjab*** *reported in* ***AIR 1986 Supreme Court 2192*** *and the judgments rendered by a coordinate Bench of this Court in the cases of* ***Tej Singh & Ors. vs. State of Rajasthan through PP (S.B. Criminal Revision Petition No. 283/2007) decided on 16.07.2025, Jagdish Narayan Vs. State of Rajasthan (S.B. Criminal Revision Petition No. 407/2004) decided on 15.05.2024, Shankar lal & Ors. Vs. State of Rajasthan (S.B. Criminal Revision Petition No. 431/2002) decided on 05.07.2022*** *and* ***Nemi Chand Vs. State of Rajasthan (S.B. Criminal Revision Petition No. 654/2002) decided on 29.06.2022.***

7. Per contra, learned Additional Government Advocate while opposing the revision petition, submits that looking to the overall facts and circumstances of the case and the well reasoned speaking orders passed by the courts below, sentence awarded by the trial court and affirmed by the appellate court cannot be said to be disproportionate, therefore, no interference in sentence is warranted in this case.

8. I have considered the arguments advanced at the Bar and have gone through judgments passed by both the courts below and record of the case.

9. Since the revision petition against conviction of the accused-petitioner is not pressed on merits and after perusing the record,

nothing is noticed which requires interference in the finding of guilt reached by the courts below. This Court does not wish to interfere in the judgments passed by courts below qua conviction of the accused-petitioner. Accordingly, the judgments passed by the courts below qua conviction of the accused-petitioner are maintained.

10. As far as quantum of sentence is concerned, after perusing judgments and orders impugned, considering the submissions of learned counsel for the parties; precedent law on the issue; accused-petitioner, who was only 27 years of age at the time of incident, has already suffered the agony of protracted trial, spanning over a period of more than 26 years and he remained incarcerated for some time after passing of the judgment, and no evidence regarding previous conviction of the accused-petitioner is produced on record, this Court is of the opinion that if at this stage, he is sent behind bars, it will result into reviving old enmity and the same will not be conducive for peace and harmony in the village and that family of the petitioner will also suffer, therefore, no fruitful purpose would be served by sending him to jail now.

11. This Court is conscious of the judgments rendered in ***Alister Anthony Pareira Vs. State of Maharashtra : (2012) 2 SCC 648*** and ***Haripada Das Vs. State of W.B. : (1998) 9 SCC 678***, wherein, the Hon'ble Apex Court observed as under:-

> **Alister Anthony Pareira (Supra)**
>
> "There is no straitjacket formula for sentencing an accused on proof of crime. The courts have evolved certain principles: twin objective of the sentencing policy is deterrence and correction. What sentence would meet the ends of justice depends on the facts and circumstances of

each case and the court must keep in mind the gravity of the crime, motive for the crime, nature of the offence and all other attendant circumstances."

Haripada Das (Supra)

"…considering the fact that the respondent had already undergone detention for some period and the case is pending for a pretty long time for which he had suffered both financial hardship and mental agony and also considering the fact that he had been released on bail as far back as on 17-1-1986, we feel that the ends of justice will be met in the facts of the case if the sentence is reduced to the period already undergone…"

12. Consequently, the judgments dated 23.04.2007 and 20.04.2006 passed by both the courts below qua conviction of the accused-petitioner for the offences under Section 324 & 326 of I.P.C. are affirmed but the quantum of sentence awarded to the accused-petitioner by the trial court and affirmed by the appellate court is reduced to the period already undergone by him, which would be sufficient and justifiable to serve interest of justice. The accused-petitioner is on bail. He need not to surrender. His bail bonds be cancelled.

13. The revision petition stands disposed of accordingly.

14. A copy of this order along with records be sent to the trial court forthwith.

(BHUWAN GOYAL),J

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