

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.584 of 2015

Arising Out of PS.Case No. -259 Year- 2013 Thana -WARSALIGANJ District- NAWADA

Navin Singh Son of Late Baleshwar Singh resident of village - Chainpura, P.S.
Warsaliganj, District - Nawada

.... Appellant

Versus

The State of Bihar

.... Respondent

Appearance :

For the Appellant/s : Mr. Bhavesh Kumar, Advocate.

For the Respondent/s : Mr. Binod Bihari Singh, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 01-10-2015

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

2. The present appeal under Section 389(2) of the Code of Criminal Procedure (For short “Cr.P.C.”), has been filed for setting aside the order, dated 24.8.2015, passed by the learned 1st Additional Sessions Judge, Nawada in Cr. Appeal No. 23 of 2015, whereby the learned Additional Sessions Judge has rejected the application of the appellant for suspending his sentence and granting him bail under

Section 389(1) Cr.P.C., against the judgment of conviction, dated 21.7.2015, passed by the learned Chief Judicial Magistrate, Nawada. The appellant has been convicted under Section 25(1-B)(a) and 26/35 of the Arms Act.

3. The learned counsel for the appellant has contended that the impugned judgment, passed by the learned Chief Judicial Magistrate, which is challenged in appeal before the Sessions Court, is bad in law. He has contended that Section 25(1-B) (a) of the Arms Act prescribes maximum punishment of three years but the learned Chief Judicial Magistrate has awarded a sentence of five years under the aforesaid Section of Arms Act, which shows complete non-application of mind.

4. The learned Additional Public Prosecutor has opposed the prayer for bail. He has submitted that apart from Section 25(1-B)(a) of the Arms Act, the appellant has also been convicted under Section 26/35 of the Arms Act, for which he has been sentenced to undergo rigorous imprisonment for five years.

5. Be that as it may, regard being had to the facts and circumstances of the case, I am not inclined to accede to prayer of the appellant. Accordingly, the present application is rejected.

6. The learned 1st Additional Sessions Judge, Nawada is directed to dispose of Cr. Appeal No. 23 of 2015 on merits within

three months from today. In case, the counsel for the appellant fails to appear to press the appeal, the Court may appoint a lawyer practicing in criminal side, as *Amicus Curiae* and proceed with the hearing of the appeal without any delay.

7. With the aforesaid observation and direction, the appeal is dismissed.

(Ashwani Kumar Singh, J.)

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