

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.830 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null District- ARRARIA

1. Gajendra Yadav Son of Late Buddhu Yadav resident of village - Mirdaul, P.S. Narpatganj, District - Araria

.... Petitioner/s

Versus

1. The State of Bihar

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Kamal Kishore Singh, Advocate
Mr. Amar Nath Singh, Advocate

For the Respondent/s : Ms. Sharda Kumari, APP

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER

ORAL

Date: 25-11-2016

The petitioner stands convicted of offences punishable under Sections 25 (1-B)(a) and 26 (1) of the Arms Act, 1959, at a trial held by the learned Chief Judicial Magistrate, Araria. Accordingly, he has been sentenced to undergo rigorous imprisonment for a period of two years of the offence punishable under Section 25 (1-B) (a) of the Arms Act, 1959, and for a period of one year for the offence punishable under Section 26 (1) of the Arms Act, 1959. A fine of Rs. 3,000/- for each of the offences has also been imposed on the petitioner. Both the sentences are to run concurrently.

2. The learned Additional Sessions Judge I, Araria,



vide its judgment and order, dated 15.07.2016, passed in Criminal Appeal No. 09 of 2016, has affirmed the judgment of conviction of the petitioner and the sentence of imprisonment, so passed by the learned Trial Court, vide judgment and order, dated 25.04.2016, passed, in Trial No. 2834 of 2016, arising out of G. R. No. 2914 of 2015, by the learned Chief Judicial Magistrate, Araria.

3. The petitioner, in the present criminal revision application filed under Section 397 read with 401 of the Code of Criminal Procedure, 1973, is aggrieved by the findings of conviction recorded by the Courts below and imposition of sentence, as noted above.

4. Heard learned Counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the State.

5. Learned Counsel appearing on behalf of the petitioner, having realized the difficulty in assailing the concurrent findings of facts recorded by the Courts below on the point of conviction of the petitioner of the offences punishable under Sections 25(1-B) (a) and 26 (1) of the Arms Act, 1959, has contended that since the petitioner has no criminal antecedent, and he has remained in custody since 27.09.2015, i.e., more than one year, the Court may consider reduction of sentence. According to him, the petitioner being

the first offender, the Courts below ought to have taken a lenient view of the matter on imposition of sentence.

6. Learned Counsel for the petitioner appears to be right in his submission. The fact that the petitioner has no criminal antecedent, is a mitigating circumstance, which could be taken into account for considering award of sentence of imprisonment.

7. Accordingly, the sentence of imprisonment is modified and reduced to the period of custody which the petitioner has already undergone.

8. Let the petitioner be set free forthwith, if he is not required in connection with any other criminal case.

9. This application stands disposed of accordingly.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	25.11.2016
Transmission Date	25.11.2016