

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.933 of 2018

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1. Anil Yadav Son of Saryug Yadav @ Lattan Yadav, resident of Village-
Lakhochak, P.S.- Chanan, District- Lakhisarai.

.... Petitioner/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar

For the Respondent/s : Mr. Sir Pawan Kumar Chaurasiya

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

4 30-10-2018 Heard the parties.

The instant revision application has been filed by the petitioner against the order dated 11.06.2018 passed by the learned Sessions Judge, Lakhisarai in Cr. Appeal No. 18/2018, by which he has partly affirmed the judgment of conviction and order of sentence dated 20.03.2018 passed by the Additional Chief Judicial Magistrate, Railway, Kiul, Lakhisarai in G.R. No. 140/2015, T.R. No. 1415/2018, arising out of Jhajha Rail P.S. Case No. 62/2017, whereby and whereunder, the petitioner stood convicted under Section 25(1-B)a/26(1) of the Arms Act and was sentenced to undergo R.I. for two years under Section 25(1-B)a and 26(1) of the Arms Act with a fine of Rs. 2,000/- having default clause.

Prosecution case in short is that on 13.03.2017, while the informant, S.H.O. of Jhajha Rail P.S. along with other police personnel were on duty, one passenger got down from the Hatia



Express Train from the general boggie and after seeing the police personnel, he started running away but on chase, he was caught by the police and on search of his person, one loaded country made pistol, one live cartridge of 8MM and one mobile phone were recovered. Accordingly, seizure list was prepared in presence of witnesses.

On the basis of the above, Jhajha Police Station registered a case being Jhajha Rail P.S. Case No. 62/17 against the petitioner for the offences punishable under Section 25(1-B)a, 26(1) of the Arms Act.

During trial, prosecution got examined four witnesses. PW1 is the informant in this case, PW2 is the seizure list witness, PW 3 is the Seargent Major, who examined the recovered pistol and cartridge and PW4 is the Investigating Officer.

On conclusion of the trial, learned Trial Court convicted the petitioner under Sections 25(1-B)a, 26(1) of the Arms Act and also under Section 414 of the Indian Penal Code and sentenced him in the manner aforesaid. Against, which the petitioner preferred Criminal Appeal No. 18/2018 and vide order dated 11.06.2018, learned Sessions Judge, Lakhisarai affirmed the conviction of the appellant under Sections 25(1-B)a, 26(1) of the Arms Act. However, learned Sessions Judge, Lakhisarai set aside the conviction of the appellant under Section 414 of the Indian Penal



Code.

Aggrieved by the impugned orders, the petitioner has preferred the present revision application.

Learned counsel for the petitioner after some argument confined his submissions on the point of sentence and submitted that there is nothing available on record to show that the petitioner was previously convicted in connection with any other case and sentence is R.I. for two years, out of which, he has already remained in custody for one year and seven months as, he has been in custody since 11.03.2017 and, therefore, a lenient view may be taken against the petitioner and he may be released.

Having gone through the impugned judgments and also considered the submission of the learned counsels. It appears that the petitioner was apprehended on spot and from his possession one pistol, one live cartridge and mobile were recovered and accordingly, I do not find any infirmity impugned judgments so far conviction of the petitioner under Section 26(1-B)a, 26(1) of the Arms Act is concerned, the same is hereby affirmed. However, so far sentence of the petitioner is concerned, it appears that he is aged about 26 years and there is nothing available on record to show that he was previously convicted in connection with any other case and further, he has already remained in judicial custody for one year and seven months, therefore, no fruitful purpose will



be served to send him behind the bars to serve the remaining sentence, as such, the period of sentence is modified to the period already undergone by the petitioner in judicial custody.

With the above modification in sentence, this revision application stands dismissed.

(Vinod Kumar Sinha, J)

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