

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.457 of 2018

Arising Out of PS.Case No. -null Year- null Thana -null District- WESTCHAMPARAN(BETTIAH)

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Munna Kumar Sharma S/o Shiv Shankar Sharma @ Shankar Sharma, R/o Vill.-
Baswaria, P.S.- Bettiah Town, Distt.- West Champaran.

.... Petitioner

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate

For the Respondent/s : Mr. Anil Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA

ORAL JUDGMENT

Date: 31-10-2018

This revision application is directed against the judgment dated 15.1.2018 passed by Sri Abhimanyu Lal Srivastav, District and Sessions Judge, West Champaran, Bettiah in Criminal Appeal No. 52 of 2017 affirming the judgment dated 20.9.2017 passed by Sri Manoranjan Kumar Jha, S.D.J.M., West Champaran, Bettiah in Trial No. 638 of 2017, corresponding to G.R.No. 305 of 2010, arising out of Bettiah Town P.S.Case No. 30 of 2010 by which petitioner has been convicted under Section 25(1-B)(a) and 26 of the Arms Act and sentenced to undergo R.I. for two years and six months under Section 25(1-B)(a) and six months under



Section 26 of the Arms Act along with a fine of Rs.1000/- and both the sentences were directed to run concurrently.

2. Prosecution case, in brief, is that on secret information, police apprehended two accused persons, namely, the petitioner and one Sameer Ansari and from possession of Sameer Ansari one pistol and cartridges and charas like substance were recovered and from the possession of the petitioner one country-made katta and a live cartridge were recovered and seizure list was prepared at the place of occurrence for which Bettiah Town P.S. Case No. 30 of 2010 was registered and ultimately the case was transferred to the learned S.D.J.M., West Champaran, Bettiah for trial and disposal. Learned S.D.J.M. has examined four witnesses, including the informant and I.O. and after conclusion of trial the judgment and order dated 20.9.2017 was passed convicting the petitioner under Sections 25(1-B)(a) and 26 of the Arms Act and sentenced him as stated above, against which the revisionist-petitioner has preferred an appeal before the learned Sessions Judge in Cr.Appeal No. 52 of



2017 which was dismissed by learned Sessions Judge vide order dated 15.1.2018 affirming the judgment of conviction and order of sentence passed by learned trial court.

3. Being aggrieved by the same the present revision application has been filed by the revisionist-petitioner assailing the judgment of learned appellate court and judgment and order of learned trial court.

4. Learned counsel for the revisionist-petitioner after some argument has confined his argument to the question of sentence as it has been submitted that it is the first offence of the petitioner and he has been sentenced to undergo R.I. for two years and six months under Section 25(1-B)(a) and a fine of Rs.1000/- and further sentenced to undergo R.I. for six months under Section 26 of the Arms Act and petitioner has remained in custody for altogether one and a half years during pendency of investigation, trial and this revision application and as such the period of sentence may be modified to the period already undergone by him in custody.

5. Learned APP has supported the impugned



judgments and order of learned appellate court as well as learned trial court.

6. Having heard both sides and from perusal of the record it appears that there is nothing on record to show that there was any previous conviction against the petitioner and he has remained in custody for one and a half years and moreover the sentence prescribed under Section 25(1-B)(a) of the Arms Act is for one year which may extend to three years and petitioner has remained in custody for more than one and a half years, as stated by learned counsel for the petitioner and so far sentence under Section 26 of the Arms Act is concerned, he has been sentenced to undergo R.I. for six months.

7. In such view of the matter, I am not going to interfere with the impugned judgment of appellate court as well as impugned judgment of trial court so far conviction under Sections 25(1-B)(a) and 26 of the Arms Act is concerned. However, the order of sentence is concerned, the same is modified to the period already undergone by the



petitioner in custody.

8. With the aforesaid modification in the order of sentence, this revision application is dismissed.

(Vinod Kumar Sinha, J)

spa/-

AFR/NAFR	
CAV DATE	
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