

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 2510 of 1999**

Vishwanath @ Madiya S/o Rajuram, aged about 47 years, Occupation-
Agriculturist, R/o Village- Paryagi, Tahan- Durgodal, District- Kanker

-- Appellant

Versus

State of Madhya Pradesh through Police Centre- Durgodal, District- Kanker
(Now Chhattisgarh)

---- Respondent

For Appellant	:	Mrs. Renu Kochar, Advocate
For Respondent	:	Mr. Arvind Shukla, PL

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

26/07/2018

1. This appeal has been preferred against the judgment dated 19/08/1999 passed by the Additional Sessions Judge, Kanker, District- Kanker in S.T. No. 96/1997, convicting the appellant under Section 25 (1B) (a) of the Arms Act, 1959 and sentenced him to undergo RI for 1 year with fine of Rs. 500/- with default stipulation.
2. As per prosecution story on 23/09/1996 on the basis of secret information received from the informant, the police party searched the house of the appellant and seized one Bharmar Bandook, 59 nos. of small *Charra*, 2 nos. of big *Charra* and 15 grams of gun powder which was kept in a box and was seized vide Ex.P.1 from the possession of the appellant. The appellant was not having any license to carry that Bharmar Bandook. Seized articles were sent for examination to FSL

vide Ex.P.-7. Report of FSL is Ex.P-8. After investigation, a charge-sheet under Section 25 & 27 of the Arms act and Section 3/5 of the Explosive Substance Act was filed. The trial Court has framed the charges under Section 25 (1B) (a) of the Arms Act and Section 3/5 of the Explosive Substance Act. After trial, the trial Court has acquitted the appellant from the charges under Section 3/5 of the Explosive Substance Act and convicted the appellant under Section 25 (1B) (a) of the Arms Act and sentenced him as mentioned in para 1 of this judgment.

3. Learned Counsel appearing for the appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that out of total jail sentence of 1 year, the appellant during trial has undergone about 26 days and during the pendency of this appeal, he has undergone about 1 month 8 days, in total about 2 months. The incident is of the year 1996, there is no criminal antecedent of the appellant and he is facing this lis since last 22 years, therefore, therefore, the sentence awarded to the appellant may be reduced to the period already undergone by him.
4. Per contra, learned Counsel appearing for the State supported the impugned judgment and argues that as per Section 25 (1B) (a), the minimum punishment is of 1 year, therefore, the sentence awarded by the trial Court is just and proper and requires no interference.
5. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
6. Though in the offence under Section 25 (1B) (a), the minimum

punishment is of 1 year, but as per the proviso of Section 25 (1B) (a) of the Arms Act, the Court may for any adequate and special reasons to be recorded in the judgment impose a sentence of imprisonment for a term of less than one year.

7. Considering the above facts and circumstances, particularly considering that out of total jail sentence of 1 year, the appellant has undergone about 2 months, he is facing this */is* since 22 years and no fruitful purpose would be served to again send him in jail after 22 years, I am of the considered opinion that the ends of justice would be met if, while upholding the conviction imposed upon the appellant, the jail sentenced awarded to him is reduced to the period already undergone by them.
8. Consequently, the revision is partly allowed. The conviction imposed upon the appellant is affirmed and the jail sentence awarded to him is reduced to the period already undergone by him. The fine sentence is also affirmed.
9. It is reported that the appellant/accused is on bail. His bail bond is not discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.
10. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge