

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No.380 of 2009**

- Shiv Kumar Sahu, S/o late Kartik Ram Sahu, aged about 25 years, R/o Panjari Plant, P.S. Chakradhar Nagar, Raigarh, District Raigarh (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, through the District Magistrate, Raigarh, District- Raigarh (C.G.)

---- Respondent

For Appellant	:	Shri Hemant Kumar Patel on behalf of Shri M. K. Jaiswal, adv.
For Respondent/State	:	Shri Anant Bajpai, PL

Hon'ble Smt. Justice Rajani DubeyOrder On Board**12.07.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 24.07.2009 passed by the Sessions Judge, Raigarh (C.G.) in Cr. Appeal No. 21/2008 whereby, the learned appellate Court below has confirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Raigarh, (C.G.) vide its judgment dated 30.06.2008 in Criminal Case No. 674/2006 for the offence under Section 25-1(B)(b) of Arms Act and sentenced him to undergo R.I. for one year with fine of Rs. 1,000/- plus default stipulation.

2. Brief facts of the case are that on 18.03.2001 at about 09:15 AM, the accused/applicant was in possession of sword, and brandishing the sword in the locality and on the basis of information, Sub-Inspector Rahul Tiwari, went to the spot and recovered the sword from the possession of applicant. An FIR was registered against the applicant under Section 25 of Arms Act. After completion of investigation charge-sheet was filed and charge was framed against the applicant under

Section 25 -1(B) (b) of Arms Act.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 04 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charge leveled against him and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 30.06.2008, learned Judicial Magistrate has convicted and sentenced the applicant for the offence under Section 25-1(B)(b) Arms Act and sentenced him to undergo R.I. for one year and to pay fine of Rs. 1,000/-. This order was appealed by the applicant and in the appeal, learned Appellate Court has confirmed the conviction and sentence of the appellant. Hence, the present revision.

5. Heard learned counsel for the parties and perused the material on record including the impugned judgment.

6. Counsel for the applicant submits that he is not pressing the revision so far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to him, the incident is said to have taken place in the year 2001, and thereby near about 18 years have rolled by since then. He is aged about 40 years. The applicant has already remained in jail for about 27 days, and no useful purpose would be served in again sending him to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon him may be reduced to the period already undergone by him.

7. On the other hand, supporting the impugned judgment, learned counsel for the respondent submits that the Court below was fully justified in convicting & sentencing the applicant.

8. Having gone through the material on record and the evidence of the witnesses Goverdhan (PW-1), Malikram Chauhan (PW-2), Balkrishna Bareth @ Kanhaiya Lal Bareth(PW-3) and Rahul Tiwari (PW-4), involvement of the accused/applicant in the crime in question

stands proved beyond reasonable doubt. This Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the appellants under Section 25-1(B)(b) of Arms Act.

9. So far as sentence part is concerned, Section 25-1(B)(b) of Arms Act deals with the punishment for certain offences, which reads as under:-

“(b). Acquires, has in his possession or carries in any place specified by notification under Section 4 any arms of such class or description as has been specified in that notification in contravention of that section: or

shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and shall also be liable to fine.

Provided that 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.”

10. In view of aforesaid provisions of the Arms Act and keeping in view the facts that incident had taken place in the year 2001, and further that the appellant had already remained in jail for about 27 days and no useful purpose would be served in again sending him jail, his sentence is liable to be reduced to the period already undergone by him.

10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the applicant, he is sentenced to the period already undergone by him. The applicant is on bail. His bail bond shall stand discharged.

Sd/-
(Rajani Dubey)
JUDGE