

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.813 of 2015**

Arising Out of PS. Case No.-92 Year-2004 Thana- JOGAPATTI District- West Champaran

Azad Ansari @ Ajaj Ansari son of Late Hoda Ansari, resident of village-
Amaithiya, P.S.- Yogapatti, District- West Champaran

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ashhar Mustafa, Advocate Mr. Vikash Kumar Jha, Advocate
For the Respondent/s	:	Mr. Dilip Kumar Sinha, APP

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

and

HONOURABLE MR. JUSTICE CHANDRA PRAKASH

SINGH

CAV JUDGMENT

**(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH)**

Date : 28-06-2023

This appeal has been preferred by the appellant under
Section 374(2) of the Code of Criminal Procedure, putting to
challenge the judgment of conviction dated 29.07.2015 and order
of sentence dated 05.08.2015, passed by learned Additional
Sessions Judge-IV, Bettiah (West Champaran), in Sessions Trial
No. 645 of 2004, arising out of Jogapatti P.S. case no. 92 of 2004,
whereby the appellant has been convicted and sentenced as under:



Criminal Appeal (DB) No. 813 of 2015				
Appellant	Conviction under Section	Sentence		
		Imprisonment	Fine (Rs.)	In default of fine
Azad Ansari @ Ajaj Ansari	302 of the IPC	For life	10,000/-	S.I. for six months
	25 (1-B)(a) of the Arms Act	R.I. for one year	3,000/-	S.I. for three months

2. All the sentence have been ordered to run concurrently.

3. It emerges from the *fardbeyan* of the informant (PW-7) that the appellant was produced before the Station House Officer (S.H.O.) of Yogapatti Police Station in injured condition at 05:30 pm on 23.04.2004 by the informant with other co-villagers, namely, Rafique Mian (not examined), Satan Sah (not examined), Kanchan Sah (PW-6) with a country made pistol. He disclosed in the *fardbeyan* after having produced the appellant as noted above, that the informant and his brother, Brajesh Prasad were engaged in running *roller* for last 4-5 months for construction of a road under Pradhan Mantri Gram Sadak Yojana. Sharfuddin Ansari, worked as a *munshi* in the said contract work awarded to the contractor Srikant Singh, Jitendra Singh and one Pammi Babu. While pitching work of the road was in progress at a distance of around 300 yards south of the village, at about 03:00 pm on 23.04.2014, Sharfuddin Ansari came and called them for levelling/pressing of the pitched road. Thereafter, the informant alongwith his brother Brajesh (the



deceased) approached near the cattle shed of one Akhari Yadav, while the deceased Brajesh was running the *roller*. The informant was cleaning the dirt with the help of the labourers. At about 04:30 pm, the deceased stopped the *roller* and proceeded towards the hand pump of one Bhandulli Yadav to have water. When the Brajesh was returning, one Hoda Ansari and Azad Ansari caught hold of him at a meeting point of three roads (trifurcation) and started assaulting him. The assailants took the deceased towards the house of one Balak Mian, where both of them inflicted repeated knife/dagger blows upon Brajesh. When the informant reached there, he saw Sharfuddin Ansari carrying country made pistol, threatening others from interceding. The appellant was also carrying a country made gun with the butt of which he had assaulted the deceased. Upon alarm raised by the informant, Krishna Prasad (PW-3), Damodar Prasad (not examined) others also reached there, whereafter, the accused persons escaped leaving the deceased in injured condition. Before the deceased could be taken for treatment, he succumbed to the injuries at the place of occurrence itself. The informant and others thereafter chased, overpowered and apprehended the appellant with the country made gun which was handed over to the police. The enraged villagers had also caught hold of co-accused Hoda Ansari who was assaulted



by them leading to his death on-the-spot. He further asserted in his *fardbeyan* that nearly 5-6 days prior to the occurrence, the deceased-accused Hoda Ansari had asked a mechanic to charge at least ₹500/- from the informant upon which there was heated exchange of words between his brother Ravindra Prasad and Hoda Ansari, which had culminated into a fight between the deceased Brajesh and the deceased-accused Hoda Ansari. The *fardbeyan* also suggested that since the informant and his deceased brother did not allow Sharfuddin to commit irregularities in the work in the absence of the contractor, he alongwith Hoda Ansari (accused-deceased) and this appellant killed brother of the informant under a well designed plan. Based on the *fardbeyan* of the informant to the aforesaid effect, the Yogapatti P.S. Case No. 94 of 2004 came to be registered. On perusal of the formal FIR (exhibit-6), it transpires that the distance of the Police Station from the place of occurrence was 6 kms. The police upon completion of investigation, submitted chargesheet against the appellant for commission of the offence punishable under Section 302/34 of the IPC and Section 25(1-B) (a) of the Arms Act on 19.07.2004, whereafter, the cognizance was taken and subsequently, the case was committed to the court of Sessions vide order dated 07.12.2004, giving rise to Sessions Trial No. 645 of 2004. The Trial Court framed charges against the



appellant for commission of the offences punishable under Section 302 of the IPC and Section 25(1-B) (a) of the Arms Act to which the appellant pleaded not guilty and claimed to be tried.

4. At the trial, the prosecution examined altogether ten witnesses including the first I.O. (PW-9), the second I.O. (PW-10), the Doctor who had conducted the post-mortem examination (PW-8). It appears from the evidence of PW-10 that he had handed over the charge of investigation to another I.O., namely, Mohanlal Razak (not examined) on 14.07.2004. Presumably, the third I.O. must have submitted the chargesheet on 19.07.2004. Rajendra Sah (PW-1), Krishna Prasad (PW-3) and the informant Suresh Prasad (PW-7) are the eyewitnesses to the occurrence according to the prosecution's case. Kanchan Sah (PW-6) is a hearsay witness. PW-5 is also a hearsay witness who had reached the place of occurrence after the occurrence had already taken place. Lal Bihari Prasad (PW-4) is also a hearsay witness. Shambhu Sah (PW-2) claimed to have reached the place of occurrence after hearing commotion.

5. The prosecution got exhibited by following documents at the trial:-



Ext. 1	<i>Signature of Manoj Yadav on inquest report.</i>
Ext. 2	<i>Signature of Suresh Prasad on seizure memo.</i>
Ext. 3	<i>Signature of Informant on self-statement.</i>
Ext. 4	<i>Post Mortem Report.</i>
Ext. 5	<i>Formal FIR.</i>
Ext. 6	<i>Seizure Memo.</i>
Ext. 7	<i>Confessional statement of Azad Ansari.</i>
Ext. 8	<i>Inquest Report.</i>
Ext. 9	<i>Sanction for prosecution.</i>
Ext. 10	<i>Certified copy of Yogapatti P.S. Case No. 93/04.</i>
Ext. 11	<i>Copy of Charge framed in S. Tr. No. 407/06.</i>
Ext. 12	<i>Order sheet of S. Tr. No. 893/13.</i>

6. After closure of the evidence of the prosecution, the appellant was questioned by the trial court under Section 313 of the CrPC based on the circumstances emerging against him from the evidence of the prosecution's witnesses. The appellant pleaded innocence and asserted his false implication out of enmity. The trial court after having evaluated and appreciated the evidence introduced at the trial held that the prosecution was able to establish the charge of commission of an offence under Section 302 of the I.P.C. and Section 25 (1-B) (a) of the Arms Act on his reasonable doubts and accordingly, held the appellant guilty of the aforesaid offences. After having held the appellant guilty of the offence, the trial court sentenced him to undergo imprisonment for life with a fine of ₹10,000/- by the impugned order dated



05.08.2015, as has been noted at the outset in the present judgment.

7. We have heard Mr. Ashhar Mustafa, learned counsel for the appellant and Mr. Dilip Kumar Sinha, learned Additional Public Prosecutor for the State.

8. Mr. Ashhar Mustafa has submitted that it can be easily culled out from the evidence of the prosecution's witnesses that though PW's 1,3 and 7 have claimed to be eyewitness to the occurrence, they are in fact not the eye witnesses. He has argued that if the disclosure made in the *fardbeyan* of the informant (PW-7) is to be believed, he was not present at the place of occurrence (P.O. for short) and had rushed to the P.O. only after his brother had raised alarm after receiving knife blows. Further, the FIR does not disclose that PW-1 was present at the P.O. and thirdly, PW-3 also reached the P.O. after the occurrence had taken place when the informant had raised alarm. He has drawn our attention to the deposition of PW-3 to contend that in his cross-examination he deposed that the deceased was alive when he had reached the P.O., but had already sustained injuries and, therefore, he is also a hearsay witness. As regards the informant (PW-7) and PW-1, he has submitted that in their evidence, they have deposed in their examination-in-chief that this appellant and his father, Hoda



Ansari (the deceased-accused) had given repeated knife blows in the abdomen of the deceased. However, the post-mortem report indicates only one incised injury on the person of the deceased which is also indicative of the fact that PW-1 and PW-7 had not seen the occurrence and they are not truthful witnesses. He has also argued that whereas PW-7 (the informant) deposed at the trial that the appellant had inflicted blows on the chest of the deceased by means of butt of gun, contrary thereto, PW-1 deposed that the appellant had inflicted blows on the head of the deceased by means of butt of gun. The evidence of PW's 1 and 7 are thus apparently conflicting *vis-a-vis*, the allegation of assault attributed against the appellant. He has thereafter taken us to the medical evidence to contend that the entire prosecution's case against the appellant stands belied. To bring home his point, he has submitted that the absence of more than one incised injury on the person of the deceased falsifies the specific case of the prosecution that the appellant and his father (Hoda Ansari-deceased) had inflicted repeated knife blows in the stomach of the deceased. He has submitted that though it is the consistent evidence of PW-1 that butt blows were inflicted by the appellant on the head of the deceased and as per the post-mortem report, there are noticeable ante-mortem injuries on the head of the deceased, there is no



evidence on record that such injury was inflicted by the butt of the gun. He has argued that had such injury been inflicted by the butt of the gun, there would have been some obvious sign of blood and traces of skin at the butt of the gun. No evidence has, however, been led to even remotely suggest that there was any sign of blood or traces of skin at the butt of the seized gun. Failure on the part of the prosecution to send the gun for FSL examination, he contends that it is also fatal to the prosecution's case, in the peculiar facts and circumstances of the present case where the gun was not seized by the police, rather it was handed over to the police by the informant with an allegation that the same was in the appellant's possession. He has lastly submitted that the trial court has committed grave error by relying on such circumstances which were not explained to the appellant while questioning him under Section 313 of the CrPC. Referring to the questions which were put to the appellant under Section 313 of the CrPC by the trial court he has submitted that the trial court in his question did not refer to any evidence of the appellant hitting the deceased with the butt of his gun. Such circumstances having not been put to the appellant under Section 313 of the CrPC could not have been used against him and must have been excluded from consideration, he contends. In support of his submission he has relied on the



Supreme Court's decision in the case of **S. Harnam Singh Vs. The State (Delhi Admn.)** reported in (1976) 2 SCC 819, **Maheshwar Tigga Vs. The State of Jharkhand** reported in (2020) 10 SCC 108, **Naval Kishore Singh Vs. State of Bihar** reported in (2004) 7 SCC 502 and **Asraf Ali Vs. State of Assam** reported in (2008) 16 SCC 328.

9. To strengthen his submission, he has submitted that the trial court has not believed the evidence of the prosecution that this appellant had inflicted knife blow in the abdomen of the deceased with his father, rather the trial court after having appreciated the evidence of PW-1, PW-3 and PW-7 read with the evidence of PW-8 has concluded that the prosecution could establish beyond all reasonable doubt that this appellant had inflicted blows on the head of the deceased by the butt of the gun. However, from perusal of the questions put to the appellant under Section 313 of the CrPC, it is apparent that no question was put to the appellant that he had inflicted blows in the head of the deceased with the butt of the gun. The only question which was put to him was that he alongwith his father had inflicted repeated knife blows in the abdomen of the deceased.

10. Learned Additional Public Prosecutor representing the State on the other hand, while defending the finding recorded



by the trial court has submitted that though there are certain minor inconsistencies in the evidence of the prosecution's witnesses, as regards the part of the body of the deceased on which the appellant had inflicted blows with the butt of the gun, the same are inconsequential. He has submitted that ante-mortem injuries caused by hard and blunt substance has been found in the post-mortem report which has been duly proved by the Doctor (PW-8), who had conducted post-mortem examination. He has submitted that as there are eye witnesses to the occurrence who has fully supported the prosecution's case, the finding of conviction recorded by the trial court does not suffer from any legal infirmity requiring this Court's interference. He has submitted that the trial court has rightly held that the appellant proved beyond all reasonable doubt the commission of offences of the appellant punishable under Section 302 of the IPC and Section 25(1-B) (a) of the Arms Act.

11. We have perused the impugned judgment and order of the trial court as well as the records of the trial court. We have given out thoughtful consideration to the rival submissions advanced on behalf of the appellant and the State. The doctor who had conducted the post-mortem examination based on the post-



mortem report proved following ante-mortem injuries on the body of the deceased:-

(1) Two lacerated wounds each size 3inch x 1inch x Cranial cavity deep and 2 ½inch x 1 ½inch x Cranial cavity deep over occipital region of head on left side. The occipital and parietal bone of left side of head were fractured. A portion of brain matter was coming out through both wound.

(ii) Three lacerated wound each size, 2inch x ½inch x bonedeeep, 1 ½inch x ½inch x bonedeeep, 1inch x ½inch x bonedeeep over left side of head in front of left ear.

(iii) On Abrasion over back of left arm size 2inch x ½ inch.

(iv) One incised penetrating wound 2inch x 1inch x abdominal cavity over left flank of abdomen through which a portion gut was coming out.

(2) On Dissection Skull- the occipital and parietal bone of left side of head were fractured through which a portion of brain matter was coming out. Underlying scalp tissues were bruised and lacerated.

12. It can be easily discerned from the medical evidence that there was only one incised penetrating wound 2 inch x 1 inch x abdominal cavity over left flank of abdomen was found, through



which a portion of gut was coming out. It is the specific case of the prosecution that the appellant's father Hoda Ansari and this appellant had caught hold of the deceased, i.e., the informant's brother and thereafter taken him in front of the house of one Balak Miyan. It is also the prosecution's case that both of them were inflicting dagger blows on the person of the deceased. The prosecution's case to the effect that repeated dagger blows were given on the person of the deceased is not supported by the medical evidence inasmuch as only one incised penetrating wound was found during the post-mortem examination in the abdomen of the deceased. It is the prosecution's case that this appellant was carrying a country made gun and a dagger simultaneously. The appellant's father, who, as per the prosecution's case had given dagger blow in the abdomen of the victim was killed by the enraged villagers and this appellant was apprehended by the villagers with the gun in his hand and, subsequently, produced before the Officer in charge of the police station. The prosecution's witnesses 1, 3 and 7 who claimed to be the eyewitnesses, consistently deposed at the trial that it was the appellant's father Hoda Ansari who had inflicted dagger blows in the abdomen of the deceased. The trial court, upon analysis of the evidence of the prosecution's witnesses has concluded in



paragraph-25 of the impugned judgment, as has been pointed out by the learned counsel for the appellant that the prosecution was able to establish that whereas the deceased/co-accused Hoda Ansari had assaulted the deceased with dagger in his abdomen, the appellant had assaulted the deceased with the butt of the gun on his head.

13. Learned counsel appearing on behalf of the appellant appears to be correct in his submissions that in the examination under Section 313 of the CrPC the appellant was not questioned with reference to any evidence emerging from the depositions of the prosecution's witnesses that any assault was made by him by the butt of the gun on the person of the deceased. For ready reference, we are reproducing herein below the question which was put to the appellant by the learned trial court under Section 313 of the CrPC and the appellant's answer thereto.

प्रश्न :- आपके विरुद्ध अभियोग है की दिनांक 23.04.2004 समय 04:30 बजे संध्या को अमेटिए गांव में मृतक ब्रजेश प्रसाद जो हथिया - दोनवार सड़क बनवा रहा था. पूर्व दुश्मनी के कारन होदा अंसारी और आप ब्रजेश प्रसाद को चाकू से मार कर जख्मीकर दिए जिसकी मृत्यु घटना स्थल पर हो गयी. ग्रामीणों द्वारा होडा अंसारी को भी जान से मार दिया गया और तुम्हे ग्रामीणों द्वारा देसी बन्दुक के साथ नवगवां के समीप पकड़ लिया गया. क्या कहना है ?

उत्तर :- जी नहीं। झूट है ।



प्रश्न :- सफाई में क्या कहना है।

उत्तर :- निर्दोष है. दुश्मनी के कारन फंसा दिया है ।

14. If the evidence of the prosecution's witnesses including eyewitnesses is accepted to be true, it was the appellant's father who had given dagger blow causing an incised penetrating wound in the abdomen of the deceased. This appellant is also said to have given dagger blows on the person of the victim, according to the deposition of the prosecution's witnesses. No ante-mortem injury caused by sharp cutting incised weapon has been proved by the prosecution on the person of the deceased. The prosecution, thus can not be said to have proved that any dagger blow injury was inflicted by this appellant on the person of the deceased. The appellant's father Hoda Ansari, who according to the evidence of witnesses have given dagger blow, came to be killed by the villagers whereas this appellant after having been apprehended with gun was badly injured by the co-villagers.

15. Be that as it may, as no question was put to the appellant by the trial court for him to explain the circumstances emerging from the evidence of the prosecution's witnesses that he had assaulted the deceased with butt of his gun, such circumstance would not have been used by the trial court against him and ought



to have been excluded from consideration. It is evident from the question which was put to the appellant under Section 313 of the CrPC by the trial court that this appellant and his father Hoda Ansari had injured the deceased by giving dagger blows because of which he died on the spot. As has been noted herein above, in the background of the medical evidence, the incised penetrating injury caused in the abdomen of the deceased is attributable to the father of this appellant. This appellant was apprehended by the villagers of another village, Naugawan with a country made gun.

16. Dealing with Section 342 of Criminal Procedure Code, 1898 (CrPC 1898) which is in pari materia, Section 313 of the CrPC, the Supreme Court in case of ***S. Harnam Singh Vs. The State (Delhi Admn.)*** (supra) has held in no uncertain terms in paragraphs 22 and 23 as under:-

22. Section 342 of the Code of Criminal Procedure, 1898, casts a duty on the court to put, at any enquiry or trial, questions to the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him. It follows as a necessary corollary there from that each material circumstance appearing in evidence against the accused is required to be put to him specifically, distinctly and separately. Failure to do so amounts to a serious irregularity



vitiating the trial if it is shown to have prejudiced the accused. If the irregularity does not, in fact, occasion a failure of justice, it is curable under Section 537, of the Code.

23. In the instance case, as already observed, the time of the actual exit of the goods in question from the mills was a vital circumstance appearing in the prosecution evidence. Indeed, Counsel for the respondent has primarily staked his arguments on it to show that the goods could not have reached the goods shed before 10 am on the 11th. In view of Section 342, therefore, it was incumbent on the trial Court to put this circumstance clearly and distinctly to the accused during his examination. The failure to do so, amounts to a grave irregularity. The gravity of this irregularity was accentuated by another lapse on the part of the prosecution. That lapse was the failure to produce three crucial witnesses, namely, Chiranjilal, the truck driver, Mukand lal, the marker, and Om Parkash, the railway gate clerk with his record. It may be noted that these witnesses were cited by the prosecution in the calendar of witnesses and were required to appear along with the records maintained by them. But subsequently, without good reason, they were given up. They were the persons who could give the best and direct evidence with regard to the receipt of these goods in the goods shed. The non-production of this evidence has certainly prejudiced the fair trial of the appellant.



17. In case of ***Naval Kishore Singh Vs. State of Bihar***

(supra), the Supreme Court reiterated the significance of the strict adherence to the requirement of the Section 313 of the CrPC and has laid down in paragraph-5 as under:-

The trial judge should have kept in mind the importance of giving an opportunity to the accused to explain the adverse circumstances in the evidence and the Section 313 examination shall not be carried out as an empty formality. It is only after the entire evidence is unfurled the accused would be in a position to articulate his defence and to give explanation to the circumstances appearing in evidence against him. Such an opportunity being given to the accused is part of a fair trial and if it is done in a slipshod manner, it may result in imperfect appreciation of evidence. In various decisions of this Court, the importance of questioning the accused under Section 313 CrPC was given due emphasis, e.g. Rama Shankar Singh v/s. State of W.B.I, Bhalinder Singh v/s. State of Punjab 2, State of Maharashtra v/s. Sukhdev Singh and Lallu Manjhi v/s. State of Jharkhand.

18. Again in the case of ***Asraf Ali Vs. State of Assam***

(supra), the Supreme Court enunciated in detail the object of Section 313 of the CrPC which is to establish a direct dialogue between the Court of the accused. The Court has held that if a point in the evidence is important against the accused, and the conviction is intended to be based upon it, it is right and proper



that the accused should be questioned about the matter and he should be given an opportunity of explaining him. For quick reference, we consider it apt to reproduce paragraphs 21,22 and 23 of the decision in case of *Asraf Ali Vs. State of Assam* (supra) wherein the Court has noted various other decisions of the Supreme Court on significance of the compliance of the requirements under Section 313 of the CrPC.

19. Relying on the Supreme Court's decision in the case of *Naval Kishore Singh Vs. State of Bihar* (Supra), the Supreme Court has held in the case of *Maheshwar Tigga Vs. The State of Jharkhand* (supra) that the circumstances not put to an accused under Section 313 can not be used against him and must be excluded from consideration. Paragraph-8 of the said decision is relevant and is being reproduced herein below:-

"It stands well settled that circumstances not put to an accused under Section 313 CrPC cannot be used against him, and must be excluded from consideration. In a criminal trial, the importance of the questions put to an accused are basic to the principles of natural justice as it provides him the opportunity not only to furnish his defence, but also to explain the incriminating circumstances against him. A probable defence raised by an accused is sufficient to rebut the accusation without the requirement of proof beyond reasonable doubt."



20. In the present case, finding of conviction recorded by the trial court is based on the conclusion that the appellant had given blows with the butt of his gun on the head of the deceased. Since no specific question was put by the trial court on this aspect under Section 313 of the CrPC, learned counsel for the appellant is correct in his submissions that the appellant's case was seriously prejudiced as the trial court relied on such evidence in respect of which no question was put to him under Section 313 of the CrPC.

21. In the present set of facts and circumstances, we are of the considered view that the trial court could not have relied upon and taken into account such circumstance which were not explained to the appellant, while questioning him under Section 313 of the CrPC.

22. In normal case, we would have remitted the case to the trial court for proper examination of the appellant under Section 313 of the CrPC. However, we do not consider it proper in the facts and circumstances of the present case which was instituted in 2004.

23. Further, we are of the opinion that failure on the part of the prosecution to send the country made gun for forensic examination is a major lacuna. There is no evidence to the effect



that any part of the gun was blood stained or any portion of skin of the deceased was found on the butt of the gun.

24. For the reasons noted above, we are of the considered opinion that the charge against the appellant for the offence punishable under Section 302 of the Indian Penal Code can not be said to have been proved at the trial beyond all reasonable doubts the appellant deserves acquittal by giving him benefit of doubt.

25. Taking into account a holistic view of the entire circumstances emerging from the evidence adduced at the trial, in our opinion, the appellant's conviction for the offence punishable under Section 25 (1-B) (a) of the Arms Act can also not be upheld and the appellant deserves to be given benefit of doubt for the reason that he was produced before the police by the informant and the co-villagers and the said country made gun was handed over to the police with an accusation that the same was in possession of the appellant and with the butt of the gun he had assaulted the deceased. It does not appear from the evidence that the gun so seized was produced before the trial court as material exhibit. Failure on the part of the prosecution to send the gun for



forensic examination to establish that the same was in the possession of the appellant is another reason why the appellant's conviction for the offence punishable under Section 25 (1-B) (a) of the Arms Act can not be upheld.

26. Accordingly, for the reasons noted above, we do not find it safe to uphold the appellant's conviction for the offence punishable under Section 302 of the IPC and Section 25 (1-B) (a) of the Arms Act. The appellant deserves to be acquitted by giving him benefit of doubt.

27. This appeal is accordingly allowed.

28. The impugned judgment of conviction dated 29.07.2015 passed by the learned Additional Sessions Judge-IV, Bettiah (West Champaran), in Sessions Trial No. 645 of 2004, arising out of Jogapatti P.S. case no. 92 of 2004, recording of finding of conviction of the appellant is here by set aside. The impugned order of sentence dated 05.08.2015 passed by the trial court is also set aside.



29. The appellant is in custody. Let him be released from jail forthwith, if not required in any other case.

(Chakradhari Sharan Singh, J)

I agree.
Chandra Prakash Singh, J:

(Chandra Prakash Singh, J)

Nishant/-

AFR/NAFR	NAFR
CAV DATE	22.11.2022
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