

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5573 of 2019

Arising Out of PS. Case No.-365 Year-2017 Thana- GOVT. OFFICIAL COMPLAINT CASE
District- Sheikhpura

Sanjay Ram Son Of Late Bal Kishore Ram Resident Of Village- Murarpur,
P.S.- Korma, District- Sheikhpura.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Manish Kumar No2
For the Respondent/s : Mr. A.M.P. Mehta, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 14-11-2024 Heard the learned counsel for the appellant and the
learned APP for the State.

2. This memo of appeal has been filed for setting aside the judgment and sentence dated 21.11.2019 passed by the learned A.D.J. 2nd cum Special Judge (Excise), Sheikhpura in Excise Case No. 365 of 2017/58 C-2/2011, by which the appellant has been convicted and sentenced to undergo imprisonment for a period of one year and nine months and also fine of Rs. 2,000/- for the offence under Section 47(A) of the Bihar Excise Act. In default of payment of fine, he is further sentenced to undergo simple imprisonment for a period of one month.

3. As per the prosecution case, the police personnel



raided the house of the appellant and on search 3750 Kg. fermented *mahua* and 45 liters of illicit liquor has been recovered.

4. The learned counsel for the appellant has submitted that he doesn't want to press this appeal on merits. He limits his argument only on the quantum of sentence. He further submits that this is the first offence committed by the appellant and he prays that a lenient view maybe taken so far as the punishment is concerned.

5. The appellant has already undergone 19 months of imprisonment and in these circumstances, the appellant is not required to be taken into custody.

6. It has come in the impugned judgment that this is the first offence committed by the appellant and considering the aforesaid facts, the minimum punishment prescribed in the law under Section 47(A) of the Bihar Excise Act for the first offender is conviction of three months and a fine of not less than Rs. 500/-.

7. In view of the above, this Court does not interfere in the conviction of the appellant which is upheld, but the sentence awarded to the appellant is modified to that of three months and a fine of Rs. 500/-.



8. The appellant is required to deposit a fine of Rs. 500/- in the Court below within four weeks.

9. Accordingly, this appeal stands partly allowed. If the appellant is not wanted in any other case, he is directed to be released forthwith.

(Sandeep Kumar, J)

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