

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL REVISION No.329 of 2022

Arising Out of PS. Case No.-626 Year-2016 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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Amit Kumar @ Manta @ Sanni, Son of Hari Prasad Sah, Resident of Patel
Babu Road, Mundichak, P.S. - Tilkamanjhi, District - Bhagalpur.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Petitioner : Mr. Ashok Kumar Singh, Amicus Curiae

For the State : Mr. Ajit Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL JUDGMENT

Date : 24-07-2025

The present Criminal Revision Petition has been preferred by the Petitioner against impugned judgment of conviction and order of sentence dated 02.12.2019 passed by learned VIIIth Additional District and Sessions Judge, Bhagalpur in Criminal Appeal No. 135 of 2017, whereby learned Appellate Court below has upheld the judgment of conviction and order of sentence dated 25.08.2017 passed by learned Chief Judicial Magistrate, Bhagalpur in G.R. No. 3851 of 2016 corresponding T.R. No. 2949 of 2017, whereby learned Trial Court had



convicted the petitioner under Section 25(1-B)a of the Arms Act and sentenced to R.I for one year and fine of Rs. 1,000/- and in case of default to pay the fine, he was further directed to undergo S.I. for one month.

2. As per the prosecution case, one country made loaded *katta* was seized from the possession of the petitioner.

3. In course of trial, following six witnesses were examined on behalf of the prosecution (i) **P.W.1-** Bijay Chandra Sharma, (ii) **P.W.2-** Shambhu Kumar Pandit, (iii) **P.W.3-** Bal Mukund Sah, (iv) **P.W.4-** Sanjeev Kant, Sergeant Major, (v) **P.W.5-** Kamlesh Kumar Choudhar, I.O. and (vi) **P.W.6-** Ramayan Pandey (S.I.).

4. Prosecution has also brought on record following documentary evidences: **Ext.1-** Signature of Bijay Chandra Sharma, SHO over the seizure list, **Ext.2 to 2/2-** Signature of SHO of SI Subodh Pandit over the written report, **Ext.3-**, Signature of SI Shambhu Pandit over the memo of arrest, **Ext.4-** Forwarding letter of SHO dated 14.11.2016, **Ext.5-** Report of Sergeant Major about examination of seized arms, **Ext.6-** Sanction for prosecution order of District Magistrate, Bhagalpur, **Ext.7-** Charge Sheet and **Ext.8-**, Formal FIR.

5. The material exhibits brought on record by the



prosecution viz. **Material Ext-A and B** which are signature over production of seized arms by the Sergeant Major.

6. I heard learned Amicus Curiae, Shri. Ashok Kumar Singh, who has been appointed by this Court to assist on behalf of the petitioner because no counsel is present on his behalf. I also heard learned APP for the State.

7. Learned amicus curiae submits that the petitioner is innocent and has falsely been implicated in this case. The whole case of the prosecution is based on seizure of illegal arms but the prosecution has badly failed to prove that any arms, whatsoever, were recovered from the possession of the petitioner. As per the seizure list, there are two witnesses to the seizure but neither of them has been examined in the course of trial, nor is any evidence to prove that the arms were sealed on the place of recovery, nor is there any evidence that the seized and sealed arms were deposited in the police *malkhana* in safe custody. For want of such evidence, the whole prosecution case becomes highly doubtful and the petitioner should not have been convicted. However, learned Trial Court as well as learned Appellate Court erroneously convicted the petitioner and sentenced him on perverse appreciation of evidence. It is a clean case of acquittal, but this poor petitioner has suffered for no



fault.

8. However, learned APP for the State defends the impugned judgment of conviction and order of sentence.

9. I considered the rival submissions of the parties and perused the material on record.

10. I find that the case of the prosecution is based on seizure of one country made *katta* but no seizure witness has been examined to prove the seizure, nor is there any evidence to show that the seized arms were sealed on the place of seizure in the presence of the petitioner or the same was deposited in the police *malkhana*. Convicting the petitioner on such evidence would amount to travesty of justice. The prosecution has badly failed to prove its case against the petitioner beyond reasonable doubts.

11. Hence, the impugned judgment of conviction and order of sentence is not sustainable in the eye of law and the same is accordingly set aside.

12. The petitioner is directed to be released forthwith, if he is not required in any other case. A copy of this judgment be sent to the Superintendent of Jail where the petitioner is lodged, for his information and needful.

13. LCR be sent back to the Court concerned with a



copy of this judgment.

(Jitendra Kumar, J.)

Chandan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	25.07.2025
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