

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.420 of 2022

Arising Out of PS. Case No.-4 Year-2015 Thana- SASARAM RPF/POST District- Gaya

Om Prakash Seth S/o Shri Kashi Seth, Resident of village- Ghataon Police Station Kudra, District- Kaimur (Bhabhua).

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sunil Kumar Ojha, Son of Late Sumer Ojha, R/O Vill.- Pratap Pur, P.s.- Awatar Nagar, Dist.- Chhapra, The Then Sub Inspector Railway Securities Force, Bhabua.

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr. Rameshwar Singh, Advocate
For the State	:	Mr. Narsingh Tanti, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 10-02-2026

Heard the learned counsel for the petitioner as well as learned APP for the State. Though service has been declared upon the opposite party no. 2, there is no representation on his behalf.

2. The present revision petition has been filed against the judgment/order dated 13.05.2022 passed by the learned Additional Sessions Judge-I, Gaya in Criminal Appeal No. 100 of 2018, whereby and whereunder the learned appellate court, while dismissing the appeal and affirming the judgment of conviction and order of sentence dated 08.10.2018 passed by the learned Additional Judicial Magistrate, Railway, Gaya in RP



Case No. 10 of 2015 arising out of Complaint No. 04 of 2015 in which the petitioner was sentenced to undergo simple imprisonment for two years for the offence punishable under Section 3 of Railway Property (Unlawful Possession) Act, 1966 (for short “RP(UP) Act”), modified the sentence by reducing it to simple imprisonment for one year from simple imprisonment for 2 years imposed by the learned Additional Judicial Magistrate, Railway, Gaya.

3. Briefly stated, the facts of the case are that on getting information about theft of 3 IR plate (Railways property), on suspicion, the petitioner was apprehended with a plastic bag containing 3 IR plate of aluminum. Thereafter, on the basis of a written complaint, Sasaram RPF Case No. 04 of 2015 was registered under Section 3 RP (UP) Act. After submission of inquiry report, cognizance was taken and charge was framed against the petitioner under Section 3 of RP(UP) Act. The learned trial court, after considering the evidence and material on record, convicted the petitioner under Section 3 of RP (UP) Act and sentenced him to undergo simple imprisonment for two years vide judgment/order dated 08.01.2018. Against the said order, the petitioner preferred appeal in which the said order of conviction was maintained by



the learned appellate court. However, it reduced the period of sentence of simple imprisonment from two years to one year vide judgment/order dated 13.05.2022. Both the aforesaid judgments/orders are under challenge before this Court.

4. Learned counsel for the petitioner submits that the judgment/orders dated 08.10.2018 and 13.05.2022 passed by the learned trial court as well as appellate court are bad in the eye of law as well as on facts of the case. There is no eye witness to the whole occurrence. No one has seen the petitioner committing theft for which he was charged. The petitioner was attending the natural call near the railway line from where he has been arrested and recovery of a plastic bag containing some railway articles has been shown from the petitioner. Learned counsel further submits that the petitioner remained in custody for 45 days and he has been convicted merely on presumption. Hence, both the impugned judgment/orders are not sustainable and the same be set aside.

5. Learned APP for the State opposes the submission made on behalf of the petitioner.

6. I have given my thoughtful consideration to the rival submission of the parties and perused the record.

7. From perusal of record, I find that the witnesses



have supported the prosecution case about recovery of stolen article being made from the petitioner. It was not the prosecution case that someone saw any person stealing any railway property. Though, subsequently, they came to know about the petitioner who was found taking some material from a ditch concealed with husk and recovery of railway property was made from him. Apart from that, the witnesses have, more or less, supported the prosecution case. Therefore, in this background and finding recorded by two courts regarding the complicity of the petitioner in the alleged occurrence and thereby convicting the petitioner, I am inclined to interfere with the orders so far as conviction is concerned. However, considering the fact that the trial was started in the year 2015 and the petitioner remained in custody for 45 days, though he has been sentenced to undergo simple imprisonment for one year, I am of the opinion that ends of justice would be met if the petitioner is ordered to be released with reduced sentence and some fine.

8. Therefore, the sentence of the petitioner is reduced to the period already undergone but subject to payment of fine of Rs. 10,000/-, which shall be deposited by the petitioner before the learned trial court within a month from the date of



this order. Since the petitioner is already on provisional bail, he is discharged from the liability of his bail bond.

9. Accordingly, with the aforesaid direction, the present criminal revision petition stands disposed of.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.02.2026
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