

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.696 of 2025

Arising Out of PS. Case No.-27 Year-2008 Thana- JANKINAGAR District- Purnia

Sanjay Sah, S/o Akhilesh Sah, R/o village - Sahuria, P.S- Janki Nagar,
District- Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Manish Kumar No.13, Advocate Mr. Kameshwar Prasad Singh, Advocate Mr. Rohit Kumar, Advocate
For the Respondent/s	:	Mr. Anant Kumar 1, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
CAV JUDGMENT

Date : 09-07-2026

The instant revision petition is directed against the judgment dated 20.03.2025 passed in Cr. Appeal No. 23/2014 whereby and whereunder the learned appellate court dismissed the appeal and affirmed the judgment of conviction and order of sentence dated 30.01.2014 passed by the learned Judicial Magistrate-1st Class in G.R.No.647 of 2008, Trial No. 594 of 2014, arising out of Jankinagar P.S. Case No.27 of 2008 whereby and whereunder the petitioner has been convicted for the offence committed under Sections 25(1-b)a/26(i) of Arms Act and has been sentenced to undergo rigorous imprisonment for three years for the offence committed under Section 25(1-b)a of the Arms Act with fine of Rs.5,000/- and for three years



rigorous imprisonment for the offence committed under Section 26(i) of the Arms Act with a fine of Rs.5,000/-. In default of payment of aforesaid fine, he has been directed to suffer simple imprisonment for three months. However, both the sentences were directed to run concurrently.

2. Briefly stated the facts of the case are that Jankinagar P.S. Case No.27 of 2008 was registered under Sections 25(1-b) a and 26(i) of the Arms Act on 20.03.2008 on the self statement of Sub Inspector Md. Janifuddin, SHO of Jankinagar police station. In his self statement, the informant stated that the SHO of Murliganj police station came to Jankinagar police station and requested help in apprehending one Raj Kumar Yadav in connection with Murliganj P.S. Case No.33 of 2008 dated 15.03.2008 which has been registered under Sections 353, 333, 307, 302/34 of the Indian Penal Code and Section 27 of the Arms Act. The informant came to know that Raj Kumar Yadav had been sleeping in the house of the petitioner Sanjay Sah at village Sahuria. The house of the petitioner was surrounded by the police parties in the early morning. The petitioner Sanjay Sah started running away on seeing the police party and something fell down from his waist. This object was found to be a country made revolver of six



rounds. The petitioner Sanjay Sah and 2-3 unknown persons were successful in fleeing away from the spot. From further search of the house, recovery of three spent/empty cartridges were also made.

3. The police investigated the matter and submitted charge sheet on 30.05.2008 under Sections 25(1-b)a and 26(i) (ii) of the Arms Act against the petitioner Sanjay Sah. *Vide* order dated 09.06.2008, the learned Chief Judicial Magistrate, Purnea took cognizance for the offences under Sections 25(1-b)a/26(i) of the Arms Act. Subsequently, on 08.08.2008, charges under Sections 25(1-b) a and 26(i) of the Arms Act were framed against the petitioner by the learned Judicial Magistrate-1st Class, Purnea. The petitioner pleaded not guilty and claimed to be tried.

4. During trial, five witnesses were examined by the prosecution and the prosecution proved certain documents. Exhibit 1 is the report of Sergeant Major on efficacy of firearm, Exhibit 2 is self statement of the informant. Exhibit 2/1 is the endorsement of self statement of the informant. Exhibit 3 is the formal FIR. Exhibits 4 and 4/1 are the signatures of independent witnesses on seizure list. Exhibit 4/2 is the seizure list. Exhibit 5 is the sanction order. The prosecution also exhibited seized



revolver and cartridges which were marked as material Exhibits I, II and II/2, respectively.

5. The petitioner was confronted with the prosecution evidence under Section 313 Cr.P.C. by the learned trial court, but the petitioner denied the allegations against him and pleaded his innocence.

6. No witness was examined by the defence. The learned trial court held the petitioner guilty for the offence committed under Sections 25(1-b)a/26(i) of the Arms Act and accordingly, he has been convicted and sentenced as mentioned hereinabove.

7. Aggrieved by the judgment of conviction and order of sentence dated 30.01.2014, the petitioner preferred an appeal in the Sessions Court. However, the learned Additional Sessions Judge—XIV, Purnea *vide* judgment dated 20.03.2025 dismissed the appeal and upheld the judgment of conviction and order of sentence dated 30.01.2014 passed by the learned Judicial Magistrate-1st Class, Purnea.

8. Feeling aggrieved by the dismissal of his appeal, the petitioner has come before this Court in the present revision petition assailing the judgment of the learned appellate court as well as judgment and order of the learned trial court.



9. The learned counsel for the petitioner vehemently contended that the judgment of conviction and order of sentence passed by the learned courts below are completely wrong and erroneous. The learned trial court as well as learned appellate court overlooked a number of facts and passed the impugned judgment and order against the material available on record. Therefore, the impugned orders are perverse and not sustainable. Rather the courts below passed their orders based on conjectures and surmises and only on supposition. The learned counsel further submitted that the whole case against the petitioner is suspicious. The petitioner was not apprehended from the spot and nothing incriminating has been recovered from his person/possession. Yet very conveniently, the informant made an allegation that something fell down from the waist of the petitioner and the whole case of the prosecution revolves around this fallen object which is said to be a country made revolver. But it is surprising that the informant has nowhere stated that he has previous acquaintance with the petitioner. So it is not clear how the petitioner was identified by the informant. The informant did not even say anything about any person making him aware about the identify of the petitioner. Moreover, the informant deposing as P.W.3 admitted



in paragraph 6 of his cross-examination that he has not been knowing Sanjay Sah before occurrence. Therefore, it creates big doubt over the prosecution case against the petitioner. Even the recovery of firearms or the ammunition from the house of the petitioner is doubtful. Admittedly, 3-4 persons fled away from the spot. So how it was possible for the informant to pinpoint that the object fallen from waist of one of the person was from the waist of the petitioner when the informant had not been knowing the petitioner. But this fact was not considered by the learned trial court or even the learned appellate court. P.W.4, who was one of the members of the raiding party accepted in paragraph 5 of his cross-examination that he did not see falling of the revolver and admitted in paragraph 4 that revolver was lying in between the courtyard and the alley.

10. The learned counsel for the petitioner further submitted that one of the independent witnesses, who put his signature on the seizure list, was examined as P.W.2 and this witness stated in paragraph 3 of his cross-examination that after raid, the police along with firearms went to the house of Mukhiya which was 300 yards from the house of the petitioner. At the house of the Mukhiya, the seizure list was prepared and there P.W.2 Dadan Singh and another witness Manish Kumar



Singh put their signatures on the seizure list. Therefore, the seizure list was not prepared at the spot and it could not be relied upon.

11. The learned counsel for the petitioner further submitted that the learned trial court as well as learned appellate court failed to consider all these facts and evidence in proper perspective and rather ignored the glaring flaws in the case of prosecution.

12. The learned counsel for the petitioner further submitted that the learned trial court did not put proper and relevant question to the petitioner under Section 313 Cr.P.C. Though there was no evidence that seizure of revolver of six rounds and three spent cartridges were made from the possession of the petitioner, yet the question which was put to the petitioner was that evidence has come against the petitioner that on 28.03.2008 at village Sahuria, from the possession of the petitioner, recovery of an illegal six round revolver and three spent cartridges was made. But this is neither the case of the prosecution nor any evidence has been adduced showing such fact. Therefore, the petitioner has been deprived of a valuable right to respond to the evidence which has come against him. But the learned trial court in a very casual manner put a question



which is not reflected from these evidences.

13. The learned counsel for the petitioner further submitted that apart from glaring discrepancies in the evidence of the prosecution which resulted in miscarriage of justice, even other aspects of the matter which are reflected from the evidence of the prosecution witnesses have not been considered by the learned trial court and the learned appellate court did not pay any attention to such discrepancies.

14. The learned counsel for the petitioner next submitted that all the witnesses have admitted that there were other family members of the petitioner in the house when the raid was being conducted, but surprisingly none of them was named and none of them was asked to put his signature on the seizure list for the recovery being made from the house of the petitioner. Rather the informant (P.W.3) stated in paragraph 7 of his cross-examination that he did not meet any other brothers of Sanjay Sah at the time of raid as they were not present in the courtyard. It is very surprising that if the police conducted a raid in the house of the petitioner Sanjay Sah in the early morning and nowhere it has mentioned that the family members fled away leaving the house empty, not mentioning any members of the family of Sanjay Sah and not obtaining signature on seizure



list makes the whole prosecution case doubtful and not believable.

15. Thus, learned counsel for the petitioner submitted that all the facts go on to show that the learned appellate court as well as learned trial court committed grave error and their orders could not be sustained.

16. On the other hand, learned APP appearing for the State vehemently contended that the present revision petition is devoid of merit as the same has been filed against the concurrent findings of two subordinate courts without showing any material irregularity or illegality or infirmity. The learned APP further submitted that the petitioner has stressed on the fact that there are discrepancies in the evidence of witnesses and preparation of seizure list. But these discrepancies are natural as evidence is recorded after lapse of much time past the incident and such variations are understandable. The learned APP further submitted that by and large the witnesses are consistent in their deposition that the petitioner fled away from the spot leaving behind the country made revolver and, hence, there appears no material irregularity in consideration of evidence of these witnesses. The learned APP also submitted that so far as not putting the right question under Section 313 Cr.P.C. before the



petitioner on the basis of evidence is concerned, there is no such mistake in putting the question. It is apparent from the evidence that the country made revolver fell down from the waist of the petitioner while he had been fleeing away from the spot and merely saying that the revolver was seized from the possession of the petitioner could not be said to be incorrect. It has all along been the case of the prosecution that the revolver fell down from the waist of the petitioner and hence, it was in his constructive possession and this fact was witnessed by all the witnesses, who deposed on this point. Similarly, not recording the names of the family members of the petitioner or non-supply of seizure list to them is not of much significance. It was early morning and if the family members were not available to take the copy of seizure list, the police party could not have done anything. There is no statement anywhere that the family members were present and refused to take the copy of the seizure list. Therefore, even this submission on behalf of the petitioner is not sustainable. Thus, learned APP submitted that the impugned order of learned appellate court and the order of learned trial court do not need any interference by this Court and the present revision petition may be dismissed.

17. I have given my thoughtful consideration to the



rival submissions of the parties and perused the records.

18. Law is very much settled that under revisional jurisdiction, normally the revisional court does not re-appreciate the facts to take a different view from the view taken by the subordinate courts. It is only on the point of impropriety, material irregularity or illegality, the revisional court may interfere with the orders impugned. However, non-consideration of material fact would give rise to material irregularity as it is improper for the subordinate courts to pass orders ignoring the material facts or recording a finding on such facts on which no reasonable person would arrive at a decision which appears completely irrational and against the commonsense or may amount to outright non-consideration of facts. If the impugned judgments suffer from such vices, the revisional court could interfere. With this proposition of law in the back of mind the impugned judgments are to be considered.

19. The case as made out against the petitioner revolves around the fact that the police team cordoned off the house of the petitioner for arresting co-accused Raj Kumar Yadav, but surprisingly neither the co-accused nor this petitioner was apprehended from the spot. There has been allegation in the FIR that some object fell down from the waist of the petitioner



and the informant stated the name of the petitioner in clear terms. But when the informant was not having previous acquaintance with the petitioner and it was very early in the morning, the identification of the petitioner with such certainty is against commonsense. Further, exactness of allegation is very surprising when 3-4 persons fled away from the spot and in pinpoint accuracy, the informant named the petitioner from whose possession firearms fell down. This fact also becomes important in the light of the deposition of P.W.4 in paragraph 5 of his cross-examination where he denied seeing falling of the revolver from the petitioner and rather stated that revolver was found lying in the courtyard or alley. Therefore, both the subordinate courts fell to take such material evidence into account and have rather overlooked these points considering them minor discrepancies or contradictions which could not be appreciated.

20. Similarly, the evidence of the prosecution shows seizure list was not prepared at the spot and the witness, who put his signature on the seizure list, stated in specific terms that seizure list was prepared at the house of Mukhiya. Still, the learned subordinate courts relied on the seizure list in completely improper manner. The fact was also not taken note



of that the house of Mukhiya was not nearby place rather it was 300 yards away from the place of occurrence.

21. It has all along been the case of the prosecution and deposition of prosecution witnesses that the firearm fell down from the waist of the petitioner and was not seized from his possession, rather it was lying between the courtyard and the alley and the petitioner was not apprehended from the spot. Thus, putting the question before the petitioner under Section 313 Cr.P.C. in most casual manner by the court concerned was one of the factors which ought to have been taken into consideration by the learned subordinate courts, a duty in which both the courts failed miserably. Asking the petitioner to respond to the evidence which was never there vitiates the trial and shows illegality committed while passing the orders which have been impugned before this Court.

22. In the light of the aforesaid discussion, I am of the considered opinion that non-consideration of evidence or improper consideration of evidence by the learned trial court and the same being affirmed by the learned appellate court has resulted in miscarriage of justice. Hence, this Court is of the considered opinion that prosecution has not been able to bring home the charges against the petitioner under Sections 25(1-



B)a/26(i) of the Arms Act since both the subordinate courts failed to appreciate the evidence adduced by the prosecution witnesses and rather ignored it during trial and also in appeal. Therefore, this Court is not in a position to concur with the affirmation of conviction and sentence passed against the petitioner.

23. Hence, the impugned judgment dated 20.03.2025 passed in Cr. Appeal No. 23/2014 by learned Additional Sessions Judge-XIV, Purnea as well as judgment of conviction and order of sentence dated 30.01.2014 passed by the learned Judicial Magistrate-1st Class, Purnea in G.R.No. 647 of 2008, Trial No. 594 of 2014, arising out of Jankinagar P.S. Case No. 27 of 2008, could not be sustained and, as such, both the impugned judgments are set aside. The appellant is acquitted of the charges.

24. Since the petitioner is in jail custody, he is directed to be released forthwith, if not wanted in any other case.

25. As a result, the present revision petition is allowed.

26. Let the lower court records be returned to the courts concerned forthwith.



27. From perusal of office note, I find that record of Cr. Appeal No. 23 of 2024 is still tagged with the present record.

28. Therefore, office is directed to return the record of Cr. Appeal No. 23 of 2024 to the court concerned forthwith.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	AFR
CAV DATE	16.06.2026
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