2026:JHHC:28285

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 1361 of 2005

[Against the judgment of conviction and sentence dated 08.09.2005passed by the learned Addl. Sessions Judge (F.T.C.-V), Deoghar in Sessions Trial No. 12 of 2001.]

Narayan Yadav @ Kakla, S/o. Shri Ravi Yadav, R/o. Bompass Town Khoradah, P.S.- Kunda , Dist.- Deoghar.

... ... **Appellant**

Versus

The State of Jharkhand …… **Respondent**

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellant : Mrs. Vani Kumari, Advocate

For the State : Mr. Gautam Rakesh, A.P.P.

J U D G M E N T

Dated: 18th September, 2026

By Court:-

1. Heard learned counsel for the appellant as well as learned A.P.P.

2. Instant criminal appeal is directed against the judgment of conviction and sentence dated 08.09.2005 passed by the learned Addl. Sessions Judge (F.T.C.-V), Deoghar in Sessions Trial No. 12 of 2001, whereby and whereunder, the appellant has been convicted for the offences under Section 25(1-B)(a) & 26(1) of the Arms Act and sentenced to undergo R.I. for one year for the offence under Section 25(1-B)(a) of the Arms Act and R.I. for two years alongwith the fine of Rs. 2,000/- for the offence under Section 26(1) of the Arms Act with default stipulation. Both the sentences were directed run concurrently.

Factual Matrix:-

3. The factual matrix giving rise to this appeal is that on 02.10.2000 at about 11:35 P.M., during the course of patrolling in the night, the informant J. K. Singh, officer in-charge of Kunda police station received a secret information that the certain criminals are preparing to commit dacoity in the Eastern Dangal close to Karnijore culvert. On the basis of said information, the informant alongwith other police personnels arrived near Karnijore culvert and saw some light coming from eastern side of the Dangal and some people were whispering. As soon as the police personnels reached near the place, the appellant alongwith other criminals tried to flee away. However, the appellant and other two criminals were apprehended on the chase by the police party and some of the criminals succeeded in fleeing away. The appellant and other criminals were searched in presence of independent witnesses, in which, two live cartridges of .315 bore were recovered from the present appellant. On search of other criminals, a country made loaded pistol alongwith the two live cartridges were also recovered from the possession of Abhay Kr. Singh @ Futo Singh and two cartridges were also recovered from possession of Prashant Sarkar @ Raja. One Bajaj motorcycle and other incriminating articles were also seized from the place of occurrence. No valid papers were produced regarding the seized articles. They also disclosed the name of other criminals, who succeeded in fleeing away and accordingly, the seizure list was

prepared.

4. On the basis of written report of the informant, F.I.R. being Deoghar (Kunda) P.S. Case No. 288 of 2000 dated 03.10.2000 was registered for the offence under Sections 399 & 402 of the I.P.C. and Sections 25(1-B)(a)/26/35 of the Arms Act against the accused persons.

5. After completion of investigation, the charge-sheet was submitted against the above named accused and after taking cognizance, the case was committed to the Court of Sessions, where Sessions Trial No. 12 of 2001 was registered and charges were framed under Sections 399 & 402 of the I.P.C. and Section 25(1-B)(a) & 26 of the Arms Act.

6. The accused persons denied the charges levelled against them and claimed to be tried. After framing of the charge, the case of the accused Prashant Sarkar @ Raja was separated while the accused Abay Singh @ Futo Singh was declared absconder.

7. It appears that altogether eleven witnesses have been examined by the prosecution apart from following material & documentary evidences: -

i. Mat. Exhibit-1: country made pistol.

ii. Mat. Exhibit-2 to 2/VI: Cartridges.

iii. Mat. Exhibit-3: Empty bottle of wine.

iv. Mat. Exhibit-4: 2 Cell torch Eveready.

v. Mat. Exhibit-5 to 5/IV: 5 small glan tumbers.

vi. Mat. Exhibit-6 to 6/II : End of cigarette.

vii. Exhibit-7 to 7/1: Signature of Raj Kumar Gupta on seizure list.

viii. Exhibit- 7/2 & 7/3: Signature of Prabhu Nath Giri on seizure list.

ix. Exhibit- 7/4 & 7/5: Signature of J.K. Singh on seizure list.

x. Exhibit- 7/6: Signature of J.K. Singh on Fardbeyan.

xi. Exhibit- 8: Fardbeyan.

xii. Exhibit- 9: Sanction Order No.33/2000 issued by D.M., Deoghar.

xiii. Exhibit- 10: forwarding to O/C Deoghar town P.S. for instituting case.

xiv. Exhibit-11: Registration of F.I.R. Deoghar (Kunda) P.S. case No. 288/2000.

xv. Exhibit-12: Forwarding letter addressed to the Sergeant Major, for forensic test of fire arms and cartridges.

xvi. Exhibit-13: Test report of sergeant major.

xvii. Exhibit-14 & 14/1: Signature of S.I. Kunda P.S., namely, Sri Sadhna Karia on the seizure lists.

8. On the other hand, no oral or documentary evidence has been adduced on behalf of defence. The case of the defence is denial from the occurrence and false implication by police.

9. The learned Trial Court after considering the evidence of prosecution arrived at definite conclusion about guilt of the

appellant for the offences under Sections 25(1-B)(a) & 26(1) of the Arms Act and convicted and sentenced him as stated above, which has been assailed in this appeal.

Submissions on behalf of the appellant:-

10. Learned counsel for the appellant has argued that the present appellant was apprehended alongwith other accused persons and from possession of the appellant, only two cartridges were recovered. The learned Trial Court has convicted the appellant under Sections 25(1-B)(a) & 26(1) of the Arms Act but there is no any material suggesting secret contravention of arms. The learned Trial Court has not discussed any ingredient of Section 26(1) of the Arms Act while convicting the appellant. The learned Trial Court has also miserably failed to appreciate the evidence available on record. It is further submitted that the alleged recovered cartridges from possession of the appellant were not sealed at the place of occurrence.

In an alternative, it is further submitted that the occurrence is of the year 2000 and at that time, the minimum sentence for the offence under Section 25(1-B)(a) of the Arms Act, was not less than one year but which may be extended up to three years, provided that the Court may for any adequate and special reasons to be recorded in the judgment impose a sentence of imprisonment for a term of less than one year. The appellant has remained in custody for almost about four months and he has sufficiently been punished for his guilt under Section 25(1-B)(a) of the Arms Act. The appellant is having no

criminal background. The appellant has sustained the agony of trial since more than two decades and has also undergone substantial period of imprisonment. Therefore, the sentence of the appellant may be reduced to the extent of the imprisonment already undergone by him instead of the sentence awarded by the learned Trial Court.

Submissions on behalf of the State:-

11. On the other hand, learned A.P.P. has defended the impugned judgment on merits and has submitted that there is finding of the learned Trial Court with regard to possession of illegal arms and ammunitions and secretly keeping the arms, but so far the sentence awarded to the appellant is concerned, it is submitted that the matter is of the year 2000 and more than two decades have been elapsed. Therefore, appropriate order may be passed dismissing this appeal.

Analysis, discussions and reasons: -

12. From perusal of evidence available on record, it is proved beyond doubt that appellant and other criminals were apprehended by the police and on search from the appellant, two cartridges were recovered from his possession. Though, the Sergeant Major has not been examined in this case but recovered cartridges were alive. Hence, the conviction of the appellant for the offence under Section 25(1-B)(a) of the Arms Act is hereby upheld.

13. So far conviction of the appellant for the offence under Section 26(1) of the Arms Act is concerned, Section 26 of the Arms Act

deals with secret contraventions of the any of the provision of Sections 3, 4, 10 and 11 of the Arms Act in such a manner so as to indicate an intention that such act may not be known to any public servant etc. Mere holding or possessing of a firearm is not sufficient to record conviction under Section 26(1) of the Arms Act.

In the instant case, only two cartridges were recovered from possession of the appellant through ordinary search and seizure, as such, it can't be said that there was secret contravention of provision of Section 3 of the Arms Act. Therefore, conviction of the appellants for the offence under Section 26(1) of the Arms Act is, hereby, set aside.

14. So far quantum of sentence of the appellant is concerned, the appellant has already remained in custody for about four months out of sentence of R.I. of one years awarded for the offence under Section 25(1-B)(a) of the Arms Act. The occurrence is of the year 2000 and more than two decades have been elapsed. At that time, the minimum sentence for the offence under Section 25(1-B)(a) of the Arms Act, was not less than one year but which may be extended up to three years, provided that the Court may for any adequate and special reasons to be recorded in the judgment impose a sentence of imprisonment for a term of less than one year. The appellant has also sustained the agony of trial remaining considerable period of custody.

15. In view of above discussion and reasons, I find that the appellant has been sufficiently punished for his guilt. Accordingly, in the ends of justice, the sentence of the appellant is reduced / modified and he is awarded the sentence of imprisonment already undergone as against the sentence awarded by the learned Trial Court for the offence under Section 25(1-B)(a) of the Arms Act.

16. Accordingly, this appeal is **dismissed on merits with modification in conviction and sentence** to the extent as mentioned above.

17. The appellant is on bail. As such, he is discharged from the liability of his bail bond and sureties are also discharged.

18. Pending I.A(s), if any, is also disposed of accordingly.

19. Let a copy of this judgment along with Trial Court Records be sent back immediately to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

High Court of Jharkhand at Ranchi
Dated: 18th September, 2026
Rahul- NAFR
Uploaded on: 21/09/2026