2026:JHHC:13460

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J) No.325 of 2019

[Against the Judgment of conviction and Order of sentence dated 27.02.2019, passed by the learned Additional Sessions Judge – XII, Hazaribagh in Sessions Trial No.275 of 2018, arising out of Muffasil P.S. Case No.61 of 2016 (G.R. No.1210 of 2016)]

Kameshwar Ganjhu @ Gudduwa Ganjhu aged about 30 years son of Narayan Ganjhu, resident of village Mouza Dono Reshaam, P.S. Muffasil, P.O and District – Hazaribagh.
..... Appellant

Versus

The State of Jharkhand **..... Respondent**

PRESENT
HON'BLE MR. JUSTICE RAJESH KUMAR

For the Appellant : Mr. Arun Kumar, Advocate
For the State : Mr. Rajesh Kumar, A.P.P

Order No.04/ Dated: 06th May, 2026

1. Heard Mr. Arun Kumar, learned counsel for the appellant and Mr. Rajesh Kumar, learned counsel for the State.

2. The present appeal is directed against the Judgment of conviction and order of sentence dated 27.02.2019, passed by the learned Additional Sessions Judge – XII, Hazaribagh, in Sessions Trial No.275 of 2018, arising out of Muffasil P.S. Case No.61 of 2016 (G.R. No.1210 of 2016), whereby the appellant has been convicted for the offence under Sections 25(1-B)a/ 26 of the Arms Act, and has been sentenced to undergo rigorous imprisonment for three years with fine of Rs.10,000/- (Ten thousand) for the offence under Section 25(1-B)a of the Arms Act and

rigorous imprisonment for four years and fine of Rs.10,000/- (Ten thousand) for the offence under Section 26 of the Arms Act and in default of payment of fine, he has further been directed to undergo S.I for three months on each count. All the sentences were directed to run concurrently.

3. The prosecution story, in short, is based on the self-statement of informant Birju Ganjhu, officer-in-charge Muffasil P.S. It is alleged that on 29.04.16 at about 13:00 hrs Ram Hulas Munda, officer-in-charge Barkagaon P.S came along with other police force and seek help and requested in conducting raid in connection with Barkagaon P.S Case No. 184/15. Informant along with other police force from Muffasil P.S left to conduct raid at about 13:30 hrs. They were proceeding with the raiding team, as they reached near Bokaro river, near village- Dono Reshaam at 14:15 hrs, they saw one person on a motorcycle was coming, which appear to be suspicious. On seeing police party, motorcyclist left the motorcycle and started to run away. With the help of police force the person was apprehended who disclosed his name as Kameshwar Ganjhu @ Gudduwa. In presence of independent witnesses who were the member of the raiding party, search was made. A country made pistol loaded hanged on the left side of the waist and four .303 bore cartridge were found from the right side pocket of the trouser. A Lava Company black mobile was also found. On asking, he could not produce

any valid paper regarding the pistol, cartridge and motorcycle. Accordingly seizure list was prepared and the accused-appellant was arrested.

On the basis of above written report of the informant, the criminal law has been put into motion by lodging an F.I.R being Muffasil P.S Case No. 61/16 under Sections 25(1-b)a/ 26 of the Arms Act.

The police, after completing the investigation, has submitted the charge-sheet on 18.06.2016 under Sections 25(1-b)A/ 26 of the Arms Act and the trial court has framed the charge on 20.12.2018 under Sections 25(1-B)(a)/ 26 of the Arms Act against the present appellant. Thereafter, the case has been committed to the court of Sessions to which the appellant has pleaded innocence and claimed to be tried and accordingly, the trial has commenced.

4. To substantiate the charges, the prosecution has examined altogether 08 witnesses and their depositions, in brief, are as follows:-

5. **P.W.-1, Jai Prakash Das**, is a police personnel and member of raiding party. He has supported the prosecution story.

In cross-examination, he has stated that the Officer-in-Charge, Birju Ganjhu has taken *talashi* of the present appellant and before *talashi* of the appellant-accused, the officer-in-Charge has not given his own *talashi* to anybody. He has stated that the seized articles have neither been sealed nor any marking has been made upon it.

6. **P.W.-2, Nagina Kumar Yadav**, is also a member of raiding party.

In cross-examination, he claims that he has taken *talashi* of the apprehended accused and before *talashi* of the accused, he has given his *talashi* to other person. He has stated that he has signed on the *japti suchi* as a witness. He has further admitted that he has not made any marking on the seized arms and ammunition.

Thus, P.Ws.-1 & 2 have contradicted each other. As per P.W.-1, *talashi* has been made by Birju Ganjhu (P.W.-5) while P.W.-2 has claimed that he has made *talashi,* but Both have admitted that arms and ammunition have neither been sealed nor any marking has been made upon it.

7. **P.W.-3, Anand Kumar,** has supported the prosecution story, but in cross-examination, he has stated that *talashi* of the accused has been made by the *Bada Babu* i.e. Officer-in-charge (P.W.-5). He has also admitted that before *talashi* of the accused, *Bada Babu* has not given his *talashi* to anybody. He has stated that he has not signed on the seizure list, although the seized articles have been brought to *thana* but that have not been sealed. He has stated that the place of seizure was near the village.

8. **P.W.-4, Shyamnandan Paswan,** has also supported the prosecution story, but in cross-examination, he has stated that talashi of the accused has been taken by the officer-in-charge (P.W.-5). He has also admitted that neither marking was made on the seized articles nor it was sealed.

The *Bada Babu* has not given his own *talashi* before making *talashi* of the accused.

9. **P.W.-5, Birju Ganjhu,** is the informant of the case. He has admitted that he has not given his own *talashi* to anybody before making *talashi* of the apprehended accused. He has stated that he had given mark on the seized articles. He has sealed the seized articles, but has not written so. He does not remember the name of the company of the seized ammunition.

10. **P.W.-6, Motilal Ram,** is the investigating officer of the case. He got the charge of investigation by the then officer-in-charge, Birju Ganjhu (P.W.-5), the informant of the case and he has also not supported the case of the prosecution.

In the cross-examination, he has admitted that the arms and ammunition have been given in an unsealed condition. There was no signature upon the arms when it was handed over to him nor any marking was there. He has been told that the above arms have been recovered from the possession of the accused-appellant. The place of occurrence has been stated by the accused, but that has not been mentioned in the case diary. He has not stated in the case diary regarding the sanction order of the Deputy Commissioner, Hazaribagh.

11. **P.W.-7, Krishna Prasad**, is the witness, who has produced the seized articles in the court. He has admitted that there is no mark on the seized *desi katta* neither the

case number is mentioned and being an Investigating officer of the case, he has proved the place of occurrence.

12. **P.W.-8, Shait Tuddu**, has also supported the prosecution story.

In cross-examination, he has admitted that he has not given any *talashi* to anybody. The seized articles have not been sealed rather it has been sealed by the Investigating Officer in the Police Station.

The Investigating Officer (P.W.-6) has admitted that the arms and ammunition have been given in unsealed condition. Neither forensic expert has been examined nor the sanction order has been proved by any of the witnesses, but the same has been brought on record by way of Exts.-5 & 6.

The **Ext.-5** itself suggests that it is the examination report of the seized pistol and cartridges. It appears that the person, who has conducted the test, is not an arms expert neither he has been examined. He has not even tested the seized arms and ammunition.

The **Ext.-6** is the so called sanction order. The case diary does not suggest that any request has been sent for obtaining the sanction, but still sanction has been given. Even, the said sanction order has not been proved.

13. The trial Court, after recording the evidence of witnesses, cross-examination, and the statement of the accused person, has convicted the appellant under Sections 25(1-B)a/ 26 of the Arms Act and sentenced him, as stated

above.

14. Being aggrieved by the aforesaid judgment of conviction, the appellant has preferred the present appeal.

15. Having heard learned counsel for the parties, from perusal of the record and deposition of the witnesses, it is quite evident that the procedure adopted by the prosecution is full of lacuna and not capable of converting the trial into conviction for the following reasons :-

(a) there is no independent witness to the search and seizure.

(b) the person, who has searched the accused-appellant, has not been searched by anybody.

(c) admittedly, the seized arms have neither been sealed nor any marking has been made upon that. In fact, in the entire prosecution evidence, there is nothing to suggest that the arms and ammunitions have any identification either by number or by any special mark.

(d) there is no forensic report so far as the efficacy of the arms and cartridges are concerned.

(e) the sanction order has not been proved.

16. Thus, in such a scenario, the judgment of conviction is not sustainable at all and accordingly, the judgment of conviction and order of sentence dated 27.02.2019, passed by the learned Additional Sessions Judge – XII, Hazaribagh, in Sessions Trial No.275 of 2018, arising out of Muffasil P.S. Case No.61 of 2016 (G.R. No.1210 of 2016) is, hereby,

quashed and set aside.

17. In the result, the appeal stands allowed and accordingly disposed of.

18. The appellant is on the bail, hence, he is discharged from the liability of bail bond.

19. Let the Trial Court Records be sent back to the Court concerned forthwith, along with the copy of this Judgment.

(Rajesh Kumar, J.)

Jharkhand High Court, Ranchi
Dated, the 06th May, 2026
Ravi-Chandan/- **NAFR**
Uploaded on 11.05.2026