2026:JHHC:28077

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. (Jail) Appeal (S.J.) No. 594 of 2005

Basant Mahli ... ... **Appellant**

Versus

The State of Jharkhand …… **Respondent**

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellant :Mr. Kripa Shankar Nanda, Advocate
For the State :Mr. Prabhu Dayal Agrawal, APP

J UDGMENT

Dated: 16th September, 2026

1. Heard learned counsel for the appellant and learned A.P.P. for the State.

2. The instant criminal appeal is directed against the judgment and order of conviction dated 12th October, 2004 and sentence dated 13th October, 2004 passed in S.T. No. 105 of 2002/S.T. No. 02 of 2004 by the learned Addl. Dist. & Sessions Judge (F.T.C. No.-1), Gumla, whereby and whereunder, the appellant has been convicted for the offence under Sections 399 and 402 of the IPC and 25(1-B)(a) of the Arms Act and sentenced to undergo R.I. for five years for each of the offence under Section 399 and 402 of the IPC and further R.I. for two years for the offence under Section 25(1-B)(a) of the Arms Act. All the sentences were directed to run concurrently.

Factual Matrix

3. The factual matrix giving rise to this appeal is that on 06.10.2001, the officer-in-charge Sheo Nath Prasad (P.W.-2) of Gumla Police Station got telephonic message that some persons have planned to commit crime and gathered at a place, then, he alongwith Girish

Pandey (P.W.-4), S.N. Mandal (P.W.-6), R.P. Singh, B.N. Ram, Rameshwar Ram (P.W.-5) and other police personnel proceeded towards the place where the miscreants assembled and saw six miscreants, who started to flee away seeing the police personnel out of them two were caught by the police who disclosed their name as Abhimanu Singh and Basant Mahli and also disclosed the name of absconder as Bishun Mahli, Prakash Baraik and Sandeep Baraik. Abhimanu Singh had a bag from which police recovered two 12 bore live cartridge, two empty cartridge, one bomb, one bhujali, two air pistols, one sword and cloth and seizure list was prepared in presence of two independent witnesses namely Sanjay Singh (P.W.-2) and Vinay Kumar Singh (P.W.-7). Abhimanu Singh further disclosed that Vishnu Mahli fled away with a loaded gun. The police conducted search in the house of Vishnu Mahli and recovered one S.B.B.L. Gun No. 34567A/9 for which no document was produced and this gun was looted one from the house of Anand Tirkey against which Gumla P.S. Case No. 192/2001 was instituted under Section 395 of the IPC.

4. On the basis of above written information, Gumla P.S. Case No. 244 of 2001 was registered for the offence under Sections 399 & 402 of the IPC, Sections 25(1-B)(a) & 26/35 of Arms Act, Sections 4 & 5 of Explosive Substance Act and under Section 17 & 18 of C.L.A. Act. After completion of investigation, the charge-sheet was submitted against the accused persons under the aforesaid sections and after taking cognizance, the case was committed to the court of

Sessions, where S.T. No. 105 of 2002/S.T. No. 02 of 2004 was registered. The accused persons pleaded not guilty and claimed to be tried.

5. In course of trial, altogether eight witnesses were examined by the prosecution apart from documentary evidence.

6. On the other hand, no oral or documentary evidence has been adduced by the defence. The case of the defence is complete denial from the occurrence and pleaded that they have committed no offence.

Submissions on behalf of the appellant:-

7. Learned counsel for the appellant without touching the merits of the judgment has confined his argument towards the maximum quantum of sentence of five years awarded by the learned trial Court out of which the appellant has remained in custody for two years six months twenty-two days. Learned counsel for the appellant has further submitted that the F.I.R. itself disclose the fact that this appellant was not in a possession of any arms but the learned trial Court has convicted the appellant for the offence under Section 25(1-B)(a) of the Arms Act. It has further been submitted that the case is of the year 2001 and since then, the appellant has been suffering from the agony of the trial and almost two and half decades have elapsed. Therefore, a lenient view may be taken and appropriate order may be passed.

Submissions on behalf of the State

8. Learned A.P.P. has defended the judgment of learned trial Court on

merits but so far as quantum of sentence of the appellant is concerned, it is fairly admitted that the appellant has remained in custody for more than two and half years out of maximum period of sentence of five years as awarded by the learned trial Court, hence, appropriate order may be passed.

Analysis, reasons and decision

9. I have gone through the record of the case along with the impugned judgment and order of conviction and sentence in the light of the contentions raised on behalf of both side.

10. It appears that the learned trial court has held the appellant guilty for the offence under Sections 399 & 402 of the I.P.C. and 25(1-B)(a) of the Arms Act. It also appears that out of five accused persons, only three accused persons were tried together out of them two accused persons have also been acquitted by the learned trial Court itself. From perusal of evidence of prosecution witnesses, it appears that the present appellant was not arrested with any arms but the involvement of the appellant cannot be denied as per the prosecution case, therefore, conviction of the appellant under Section 399 and 402 is hereby **affirmed** and conviction under Section 25(1-B)(a) of the Arms Act is not sustainable which is hereby **set aside**.

11. So far as sentence of the appellant is concerned, the appellant has already remained in custody for more than two and half years out of maximum five years imprisonment as awarded by the learned trial Court and the occurrence is of the year 2001 and since then,

two and half decades have passed and the appellant has sufficiently been punished for his guilt. Therefore, the sentence of the appellant is reduced to the extent of period already undergone by him.

12. In view of the aforesaid discussion and reasons, this **appeal is dismissed** with modification in conviction and sentence as stated above.

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

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

(Pradeep Kumar Srivastava, J.)

16.09.2026
Basant/
Uploaded on 21/09/2026