

District- Madhepura.

In the Court of the Principal District & Sessions Judge, Madhepura.

Present :- Balram Dubey,
Sessions Judge, Madhepura.

Madhepura, dated the 21st day of April, 2026.

Criminal Appeal No. 17 of 2024

C.I.S. No. 17 of 2024

1. Awdhesh Yadav @ Awdha Yadav s/o Late Ramjee Yadav,
Resident of Village- Majua, Nrhadih, P.S. Chausa, District- Madhepura.
..... Appellant.

VERSUS

State of Bihar

..... Respondent .

(This criminal appeal arises against the Judgment of conviction and order of sentence dated 06.03.2024 passed by Sri Ranjan Kumar Singh, Learned S.D.J.M., Uda-Kisunganj in Chausa P.S. Case No. 92/2002, G.R. Case No. 998/2002, CIS No. 21998/2002 u/s 25 (1-b)a & 26 (1) of the Arms Act).

For the Appellant : - Sri Pankaj Kumar, Advocate (Amicus Curiae).
For the Respondent : - Sri Bibeka Kumar Singh, Learned P.P.

J U D G M E N T

(1) The instant Criminal appeal has been filed against the judgment of conviction and order of sentence dated 06.03.2024 passed by Sri Ranjan Kumar Singh, Learned S.D.J.M., Uda-Kisunganj in Chausa P.S. Case No. 92/2002, G.R. Case No. 998/2002, CIS No. 21998/2002 by which the Learned Trial Court found guilty and convicted the appellant u/s. 25 (1-b)a & 26 (i) of the Arms Act and sentenced him to go under simple imprisonment for three years and to pay a fine of Rs. 1,000/- for the offence punishable u/s. 25 (1-b)a of the Arms Act and in default of payment of fine the convict was further directed to go under simple imprisonment for two month. The appellant/convict was further sentenced to go under simple imprisonment for three years and to pay a fine of Rs. 1,000/- for the offence punishable u/s. 26 (i) of the Arms Act and in case of default of payment of fine the convict was further sentenced to go under simple imprisonment for two months. The Learned Trial Court has further ordered that both the sentences shall run concurrently and the period of sentence shall be set off from the period of detention already undergone.

(2) The case of the prosecution, in short, is that on 26.11.2002 the informant Arun Kumar, S.H.O., Chausa Police Station along with other police

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personnel were engaged in evening patrolling and were going to Nrhadih where seeing the police personnel the accused Awdhesh Yadav @ Awdha Yadav started fleeing away, he was chased by police party and caught by them then following the rules search was made in presence two independent witnesses and on search a loaded country-made pistol and a .315 bore live cartridge was recovered from his possession. Accordingly, seizure list was prepared in presence of the independent witnesses the accused was arrested and brought to the police station along with the seized articles.

(3) On the basis of above self-written report of the informant Chausa P.S. Case No. 92 of 2002 dated 26.11.2002 u/s 25 (1-b)a & 26 of the Arms Act was registered and after investigation the Investigating Officer of the case submitted charge-sheet against the accused/appellant for the offence u/s 25 (1-b)a & 26 of the Arms Act and thereafter on the basis of charge-sheet and the materials available on the case diary the learned C.J.M., Madhepura took cognizance for the offence u/s. 25 (1-b)a & 26 of the Arms Act against the accused/appellant on 23.01.2003 and charge was framed u/s. 25 (1-b)a & 26 of the Arms Act against the accused/appellant on 01.05.2003 and in due course Sri Ranjan Kumar Singh, the Learned S.D.J.M., Uda-Kishunganj passed the judgment of conviction and order of sentence on 06.03.2024 convicting the accused/appellant for the offence punishable u/s. 25 (1-b)a & 26 (i) of the Arms Act and sentenced him to go under simple imprisonment for three years and to pay a fine of Rs. 1,000/- for the offence punishable u/s. 25 (1-b)a of the Arms Act and in default of payment of fine the convict was further directed to go under simple imprisonment for two month. The appellant/convict was further sentenced to go under simple imprisonment for three years and to pay a fine of Rs. 1,000/- for the offence punishable u/s. 26 (i) of the Arms Act and in case of default of payment of fine the convict was further sentenced to go under simple imprisonment for two months. The Learned Trial Court has further ordered that both the sentences shall run concurrently and the period of sentence shall be set off from the period of detention already undergone.

(4) Being aggrieved by and dis-satisfied with the judgment of conviction and order of sentence dated 06.03.2024 passed by Sri Ranjan Kumar Singh, Learned S.D.J.M., Uda-Kishunganj in Chausa P.S. Case No. 92/2002, G.R. Case No. 998/2002 the appellant/accused person has preferred this criminal appeal

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on the following grounds:-

- (5) (a) That the S.H.O. stated that the seizure-list was prepared by one A.S.I., Ganghadhar at P.O. but he was not a member of the raiding party.
- (b) That the arrest of the accused is under question mark as to who arrested him.
- (c) That the sanction report of the D.M. was not proved by the prosecution.
- (d) That there is contradiction in the statement of the witnesses which has been ignored by the Learned Trial Court.
- (e) That the police has falsely implicated the accused/appellant in the case out of conspiracy and the whole prosecution case is doubtful.
- (f) That the impugned judgment is not according to law.

FINDINGS

(6) Heard both the parties and perused the case record and evidence of witnesses minutely.

(7) Prosecution has examined as many as total seven witnesses in its oral evidence, which are as follows:-

- P.W. 1- Arun Kumar, S.I.,(Informant),
P.W. 2- Mani Bhushan Paswan, (Police Witness),
P.W. 3- Satyanarayan Oraon, (Police Witness)
P.W. 4- Arvind Kumar, (Police Witness)
P.W. 5- Sri Niwas Prasad, (Police Witness)
P.W. 6- Jafar Imam Khan (Police Witness)
P.W. 7- Vijay Kumar Singh (Police Witness).

(8) In addition to the aforesaid oral evidences, the prosecution has also adduced following documentary and material evidence to prove its case:-

- Ext- 1- Seizure-list,
Ext. 2- Witness Report,
Ext. 2/1- Endorsement on F.I.R.,
Ext. 3- Sanction Report,
Ext. 4- Charge-sheet.

(9) Defence has not adduced any oral or documentary evidence in support of its pleadings.

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(10) For proper adjudication of the instant criminal appeal, the testimonies of the witnesses are required to be re-evaluated.

Statement of Witnesses:-

(11) P.W. 1- Arun Kumar, S.I. (informant), who was then S.H.O. at Chausa Police Station, has narrated the prosecution case as per the F.I.R. during his evidence and he was one of the members of the raiding party also. He has further stated that the seizure-list was prepared at the place of occurrence on his direction by the A.S.I., Gangadhar and identified the writing of Gangadhar and his own signature over the seizure-list which has been marked as Ext. 1. He also identified the writing of A.S.I., Gangadhar and his own signature on the written report which has been marked as Ext. 2. He has further stated that charge of investigation was given to the S.I., Abdul Rajjak and he identified his writing and signature on the endorsement which has been marked as Ext. 2/1. He identified the accused present in the dock of the Court. During cross-examination this witness has stated that the accused was caught by Alamgir Tufani and on search the firearm was recovered from possession of the accused. He has further stated that the seized arms has been kept in Malkhana.

(12) P.W. 2- Mani Bhushan Paswan, who was also one of the members of the raiding party, has narrated the prosecution case as per the F.I.R. during his evidence. He has identified the accused present in the dock of the Court. During cross-examination he has stated that the seized arms has been kept in Malkhana.

(13) P.W. 3- Satyanarayan Uraon, who was also one of the members of the raiding party, has narrated the prosecution case as per the F.I.R. during his evidence. He has identified the accused present in the dock of the Court.

(14) P.W. 4- Arvind Kumar, who was also one of the members of the raiding party, has narrated the prosecution case as per the F.I.R.

(15) P.W. 5- Sri Niwas Singh, Sergeant Major, has stated in his examination-in-chief that he had tested the seized arms and cartridge produced before him by the Investigating Officer of Chausa P.S. Case No. 92/2002 and found the same in active condition. He has further stated that the test report was prepared by Hariwansh Thakur on his direction and he identified his writing and

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his own signature on the test report.

(16) P.W. 6- Jafar Imam Khan, who was also one of the members of the raiding party, has narrated the prosecution case as per the F.I.R. He has identified the accused present in the dock of the Court.

(17) P.W. 7- Vijay Kumar Singh, A.S.I. is a formal witness on whose identification the seized pistol has been marked as Ext. M-1 and the cartridges has been marked as Ext. M-1/1 & M-1/2 respectively. This witness has not been cross-examined by the defence.

(18) Learned Counsel appearing on behalf of the appellant submitted that the Learned Magistrate has completely ignored and overshadowed the facts and has not applied his judicial mind in convicting the appellant despite of appreciating the fact that all the prosecution witnesses were police officials and there was not a single independent witness to the occurrence while the occurrence allegedly took place at 17:30 hours during the day and it is ironical that no independent witnesses could be found by police. Even the seizure-list witnesses have not been examined for recording their evidence. Learned Court has also not considered the contradiction in the evidence of the witnesses.

(19) On behalf of the Respondent, the State of Bihar Sri Bibeka Kumar Singh, learned P.P. appeared and submitted that in this case seven witnesses have been examined by the prosecution before the Learned Trial Court who all have supported the case. The prosecution has proved this case beyond the shadow of all reasonable doubts and there is no merit in this appeal, hence this criminal appeal should be dismissed.

Evaluation by the Appellate Court:-

(20) Now the question for consideration before this appellate court is that:-

(a) Whether the prosecution was successful to prove its case beyond the shadow of all reasonable doubts before the Learned Magistrate ?

(b) Whether the judgment of conviction and order of sentence passed by the Learned Magistrate fulfill all the legal aspects ?

(21) From deep perusal and analysis of the evidence of all the seven

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prosecution witnesses it is clear that P.W. 1- Arun Kumar, who was the then S.H.O. of Chausa P.S. and informant of this case also, has stated in his evidence that one loaded country-made pistol and a live cartridge of .315 bore has been recovered from the possession of the accused/appellant Awdhesh Yadav @ Awdha Yadav in presence of the witnesses. This witness has completely supported and corroborated the fact of the F.I.R. and proved the recovery of the above loaded country-made pistol and one live cartridge from the house of the accused/appellant and this witness has been cross-examined by the defence but the defence has not given any suggestion or has not challenged that the loaded country-made pistol and cartridge had been recovered by this witness from the possession of the accused/appellant, so evidence of the P.W. 1 is more valuable and trustworthy and on the basis of evidence of this witness only the accused/appellant can be held guilty. P.W. 5 has tested the seized country-made pistol and cartridges who found the same in active mode and given report as per his findings. He has proved the Material exhibit No. 1, 1/1 & ½ respectively the seized country-made pistol and two live cartridges but the defence has not given any suggestion or has not challenged the evidence of this witness upon which any doubt may be created. P.W. 1 is an eye witness of the occurrence and was also the member of the raiding party along with others and has categorically corroborated the evidence of the P.W. 1- Arun Kumar, informant of the case in his entire evidence and this witness has also not been given any suggestion or any challenge by the defence on the basis of which any doubt may be created upon his evidence. P.W. 2 is also an eye witness of the occurrence and was also the member of the raiding party along with others and has categorically corroborated the evidence of the P.W. 1- Arun Kumar, informant of the case in his entire evidence and this witness has also not been given any suggestion or any challenge by the defence on the basis of which any doubt may be created upon his evidence. P.W. 3 is also an eye witness of the occurrence and was also the member of the raiding party along with others and has categorically corroborated the evidence of the P.W. 1- Arun Kumar, informant of the case in his entire evidence and this witness has also not been given any suggestion or any challenge by the defence on the basis of which any doubt may be created upon his evidence. P.W. 4 is also an eye witness of the occurrence and was also the member of the raiding party along with others and has categorically corroborated the evidence of the P.W.

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1- Arun Kumar, informant of the case in his entire evidence and this witness has also not been given any suggestion or any challenge by the defence on the basis of which any doubt may be created upon his evidence. P.W. 6 is also an eye witness of the occurrence and was also the member of the raiding party along with others and has categorically corroborated the evidence of the P.W. 1- Arun Kumar, informant of the case in his entire evidence and this witness has also not been given any suggestion or any challenge by the defence on the basis of which any doubt may be created upon his evidence. P.W. 7 is a formal witness who has proved the material exhibits and he has not been cross-examined by the defence. All the witnesses have categorically supported the fact of recovery of the loaded country-made pistol and a live cartridge of .315 bore from possession of the accused/appellant.

(22) Accordingly, from the above discussions and analyzing all the circumstances of the case, I came to conclusion that the prosecution has been able to prove its case beyond the shadow of all reasonable doubts and the same has been appreciated by the Learned Trial Court and held the accused Awdhesh Yadav @ Awdha Yadav guilty of the offence punishable u/s. 25 (1-b)a & 26 (i) of the Arms Act. Hence I find no basis to interfere in the order of holding the accused guilty of the above offence by the Learned Trial Court.

(23) Thus, having gone through all the facts, circumstances and circumspect so attended I come to an irresistible conclusion to hold and find that the impugned judgment and order of sentence does not suffer from any sort of illegality and irregularity. So far as length of sentence is concerned, the Learned Trial Court has already taken lenient view in awarding the sentence. So, unimpeachably, I further find and hold that the impugned judgment and order of sentence does not warrant any interference by this appellate court.

ORDER

(24) Accordingly, in view of the above discussion, the instant Criminal Appeal stands dismissed.

Office is directed to send a copy of this judgment along with the Trial Court's case record to the concerned Court at once.

The prescribed fee of Learned Amicus Curiae be paid to him by the District Legal Services Authority, Madhepura and for the said purpose, a copy of

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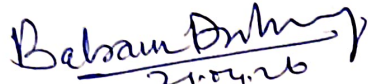
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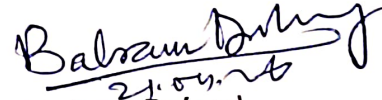
first and last page of this judgment be sent to the Secretary, District Legal Services Authority, Madhepura.

The file of this appeal be deposited to the D.R.R., Madhepura after necessary compliance, if any.

Dictated & Corrected by me :-


(Balram Dubey)
Sessions Judge,
Madhepura.
Madhepura, dated the 21st
day of April, 2026




(Balram Dubey)
Sessions Judge,
Madhepura.
Madhepura, dated the 21st
day of April, 2026