

Order below Exh.16 in Sessions Case No.85 of 2022.
(State of Maharashtra V/s. Mustkin Khan Mehmood Khan & Ors.)
(CNR No. MHJG-01000-761-2022)

This application is filed by the accused and submitted that Section 7 r/w Section 25 of the Arms Act is not applicable in this case and therefore, the accused be discharged from Section 7 r/w Section 25 of the Arms Act.

02) The prosecution filed say at Exh.22 and submitted that whatever weapons which is prohibited found in possession of the accused, those to be read as per Section 24-A and B of the notification and therefore, Section 7 r/w Section 25 of the Arms Act is also applicable here. With this the application is opposed by the prosecution.

03) On perusal of the facts of the prosecution case it appears that when the raid was conducted in which 14 swords were found in possession of the accused and therefore, the prosecution applied Sections 4 and 7 r/w Section 25 of the Arms Act and Section 3(1)(3) and 135 of the Maharashtra Police Act. The charge-sheet is committed before this Court considering the punishment for Section 7 of the Arms Act. The punishment for Section 7 of the Arms Act is upto life imprisonment and certainly the powers of the Judicial Magistrate are restricted to impose this sentence. Therefore, the Magistrate cannot impose punishment of life imprisonment. Hence, the offence under Section 7 r/w Section 25 of the Arms Act is triable by Sessions Court. Section 4 r/w

Section 25 of the Arms Act is triable by the Magistrate. The punishment is lessor than Section 7 of the Arms Act. The Section 7 is aggravated form of the Section 4. Therefore, it is triable by the Sessions Court. So far as the weapons Swords are concerned those can be covered under Section 4 r/w Section 25 and Section 7 r/w Section 25 of the Arms Act. Here the prosecution has shown recovery of 14 swords from the possession of the accused. Section 7 reads as under -

Prohibition of acquisition or possession, or of manufacture or sale of prohibited arms or prohibited ammunition.—No person shall—

(a) acquire, have in his possession or carry; or

(b) 1[use, manufacture] sell, transfer, convert, repair, test or prove; or

(c) expose or offer for sale or transfer or have in his possession for sale, transfer, conversion, repair, test or proof, any prohibited arms or prohibited ammunition unless he has been specially authorised by the Central Government in this behalf.

04) If the definition of Section 7 of the Arms Act is read then the swords is also covered therein which is also prohibited arm which is found in possession of the accused. Therefore, prima facie it appears that the Section 7 of the Arms Act is also applicable. Hence, the application is rejected.

Date :- 21st July, 2026
Amalner.

(C. V. Patil)
Additional Sessions Judge,
Amalner, Dist. Jalgaon.