



IN THE COURT OF CHIEF JUDICIAL MAGISTRATE
Howrah

Present : GAIRIK ROY
Chief Judicial Magistrate,
Howrah (JO Code- WB01022)



Date of Delivery of Judgment:- April 6th, 2026.

GR 3144 of 2015(Reg.2283 of 2018)

CNR NO.WBDD020010192023

TR-330 of 2018

**Arising out of Domjur PS Case No. 425 of 2015 dated 02.05.2015 u/s. 25(1-a) /
27 of the Arms Act.**

Order dated 06.04.2026:-

Accused Kutubuddin Gaji @ Kutub is produced before me physically

Today is fixed for delivery of judgement. Learned Assistant Public Prosecutor along with the learned advocate for the accused persons are present. Judgment is ready and pronounced in open Court.

The judgment so passed is printed sheets containing **thirty three (33) pages** and is tagged separately with the record after digital signature.

In view of the Judgment it is

ORDERED

That the accused person namely Kutubuddin Gaji @ Kutub is hereby found guilty and is convicted as per section 248 sub-section (2) of the Criminal Procedure Code 1973 for committing offence punishable under section 25(1)(a) of the Arms Act, 1959. However, the accused person is *acquitted from the charges punishable under section 27 of the Arms Act.*

As the facts proved before me warrants a punishment of the Convict person Kutubuddin Gaji @ Kutub. The accused is already in judicial Custody since 25.02.2026, as brought under arrest question of cancelling his bail bonds does not require.

Before passing sentence the convict is required to be heard on the question of sentence as per provision of section 248 (2) of Code of Criminal Procedure, 1973 because that entails serious consequence on convict as well as on persons related with him. However the quantum of punishment must be decided only after hearing the accused persons.

Accordingly, the convict Kutubuddin Gaji @ Kutub should be given time for his mental reflection.

Place the record before me at 11:30 AM for hearing on the question of sentence.

Typed and corrected by me;

Chief Judicial Magistrate

Howrah

(GAIRIK ROY)
Chief Judicial Magistrate
Howrah



Later, 06-04-2026:-

The guilt once established, the sentencing dilemma commences. Sentencing the accused person is a sensitive exercise of discretion and not a routine or mechanical prescription acting on hunch. Thus this aspect need to be considered with due care and caution. At this crucial juncture I would for a moment take a pause would like to delineate that though there is no inexorable formula but the paramount principle that should be the guiding laser beam is that the punishment should be proportionate. In a way, it is an obligation to the society which has reposed faith in the court of law to curtail the evil and thereby resist the wrongdoers from creating concavity in the social stem. Though an individual has been found to be guilty but that does not entail that all his rights should be abridged. Thus a balance has to be struck between victim's right and accused person's rights. That is why is more important that this exercise by this court at this stage must evince the rationalized judicial discretion and not an individual perception or a moral propensity.

The accused person who have already been found to be guilty in this judgment was communicated the substance as above in open Court in presence of his Ld. Counsel. He was also heard on the point of sentence to be awarded. The Ld. Counsel for the convict is also given an opportunity to present his version regarding the quantum of punishment. Availing of the same Ld. Counsel submitted that the entire case is false and frivolous and his client has been falsely implicated and he prayed for mercy of this court.

I have also asked the accused person on the point of sentence who has once again reiterated his plea of innocence but submissions give little improvement to the flavor, and none to the substance and has paled into insignificance when once he has been adjudged guilty by this court. The accused person is not at all repentant for his past activities nor even is he is haunted by any compunction due to his illegal as well as in humanitarian attitude. Individual's right to liberty is of paramount significance, but this does not mean that victims right can be wantonly ignored. Accent on individual liberty cannot be pyramided to any absurd extent, because if so done, a miscarriage of justice inevitably and inexorably ensues. When such a situation occurs, the purpose of the law and justice gets totally atrophied. "Just punishment is the collective cry of the society." To avoid prolixity, I am at this stage refraining from exhaustively discussing the judgments of the Hon'ble Supreme Court on this point, but any deviation from this settled proposition would be paradigm shift. Undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law and society could not long endure under such serious threats. It is, therefore, the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed, etc." [*State of M.P. v. Saleem (2005) 5 SCC 554 pp. 559-60*].

So any lenient consideration to the accused person would not be prudent and therefore this court does not find it expedient to release the accused on probation as per provisions of Section 360 Criminal Procedure Code 1973, and under section 3 and 4 of the Probation of Offenders Act.

However at the same time this court should not afford to be oblivious of the present prevailing scheme of reformatory justice. Victims' right to justice and accused person right of



not to be excessively punished are two sides of the judicial drachma, each being the obverse of the other and hence none can be brushed aside giving undue privilege to the other. In this case on the eve of imposition of sentence, no doubt the accused person craves mercy of the court because of the fact that he is the only earning member in his family. Considering this facet a balance needs to be struck and longtime detention behind the iron bars would not be a sagacious as well as judicious consideration. Moreover detaining the accused person for long would tantamount to punishing his family members also who are dependent on him. Thus considering a wide spectrum of matters and keeping in view the nature and social impact of the offence committed by the accused person, this court is of the opinion that the following incarceration of the convict and compensation would mitigate the ends of justice for such a delinquent.

Hence, it is,

ORDERED

That the accused person namely **Kutubuddin Gaji @ Kutub** is hereby **convicted** as per section **248 sub-section (2)** of the Criminal Procedure Code 1973 for committing offence punishable under section **25(1)(a) of the Arms Act, 1959** and he is hereby **sentenced to suffer rigorous imprisonment for the period of three years and pay fine of `5,000/- for committing offence punishable under section 25(1)(a) of the Arms Act and in default of payment of fine he is further sentenced to suffer S.I. for 01 month.** However, the accused person is *acquitted from the charges punishable under section 27 of the Arms Act.*

The convict was in the custody **from 02.05.2015 to 30.05.2015 and 25.02.2026 to 06.04.2026.** The period of detention of the convict be set of as per provision sec 428 of Code of Criminal Procedure, 1973. **Warrant of Imprisonment be issued at once.**

The judgment is pronounced in the open court in presence of the convict and given under my hand digitally signed and seal of the court today. Following the direction of the Hon'ble High Court in **MALATI SARDAR VERSUS STATE OF WEST BENGAL, C.R.A. 36 OF 2011** the convict was informed in a language which is understandable to him, that he has right to prefer appeal against this judgment. He was also informed that he has a right to avail of legal aid from the appropriate legal services authority if he intends to assail the conviction, but the accused person submitted that he has his ld lawyer and will take the legal recourse by himself.

The Material exhibits be sent down to the police station with the following directions:

a) The seized fire arms be confiscated to the State and destroyed after period of appeal following the modalities of law and intimation to this end.

Let a **digitally signed** copy of this judgment be given free of cost to the convict at once.

Inform Court Inspector, Howrah Sadar for compliance of Rule 445 of the PRB.

The case record be consigned to the DRR following the modalities of law.

A a digitally signed copy of this judgment be forwarded to the District Magistrate, Howrah and Commissioner of Police, Howrah Police Commissionerate, through email only, as per section 365 of the Code of Criminal Procedure, 1973.

Let a digitally signed copy of this judgment be forwarded to the Secretary, DLSA, Howrah.

Typed and corrected by me;

Chief Judicial Magistrate

Howrah

(GAIRIK ROY)
Chief Judicial Magistrate
Howrah



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Order dated 06.04.2026, later

Convict Kutubuddin Gaji @ Kutub has filed a bail petition through his Ld. Advocate praying for bail under section **389 (3) (i) of Code of Criminal Procedure, 1973.**

Ld Advocate for the convict submits that his client is not satisfied with the judgment as passed by this Court and his client will prefer an appeal before learned Sessions Judge, Howrah.

Heard Ld advocate and the convicts as well as Learned APP.

Learned APP raised cavil to such prayer.

Considered the prayer as the convicts are ready and willing to submit bond and are intending to assail and appeal against this conviction, keeping in mind the provision of Section 389 (3)(i) of Code of Criminal Procedure, 1973, I find in the given facts and circumstances the convicts be enlarged on bail. The prayer for bail U/S 389(3) Cr.P.C is thus allowed.

The **convict Kutubuddin Gaji @ Kutub** may find a bail of **Rs.10,000/- with two fresh registered sureties of Rs.5000/- each i/d**, shall serve the sentence as directed or the bond is furnished and/or any order of appellate authority.

Typed to the dictation directly;
corrected on the system.

Chief Judicial Magistrate
Howrah

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Received bond and bail bond pending presentation of appeal u/s. 389(3) Cr.P.C furnished by **two registered** sureties namely, **Manika Dhali and Indranil Dey, Law-Clerk(Book No.M Page No.80 and Book No.H page No.45)** of Rs.10,000/- with two registered sureties of Rs.5000/- each on behalf of **Convict Kutubuddin Gaji @ Kutub, S/O. Lt. Nuruddin Gaji, Ankurhati Jala Gazi Para police station- Domjur, District- Howrah** which is **found fit and accepted**.

Release the convict Convict Kutubuddin Gaji @ Kutub, at once. Issue release order.

Typed to the dictation directly;
corrected on the system.

Chief Judicial Magistrate
Howrah

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