



2026:CGHC:10106

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1115 of 2024

1 - Sheikh Aadil S/o Late Sheikh Bablu Musalman, Aged About 19 Years, R/o Kashmiripara, Dongargarh, P.S. Dongargarh, District- Rajnandgaon, Chhattisgarh.

... Appellant

versus

1 - State Of Chhattisgarh Through Station House Officer, Police Station Dongargarh, District- Rajnandgaon, Chhattisgarh.

... Respondent

For the Appellant : Ms. Itu Rani Mukherjee, Advocate.
For the State : Mr. Vinod Tekam, G.A.

Hon'ble Shri Justice Sanjay Kumar Jaiswal

Order/Judgment on Board

26.02.2026

1. The present criminal appeal under Section 374(2) of CrPC (corresponding to Section 415 of BNSS, 2023) has been preferred by appellant against the judgment of conviction and order of sentence dated 20.05.2024 passed by the learned Additional Sessions, Dongargarh, District-Rajnandgaon (C.G.) in Sessions Case No. 18/2022 whereby the appellant has been convicted and sentenced as under:

Conviction	Sentence
Offence under Section 307 of IPC	RI for 05 years with fine of Rs.1,000/-, in default of payment of fine, additional SI for 01 month.

Offence under Section 25(1-b)(b) of Arms Act	RI for 03 years with fine of Rs.500/-, in default of payment of fine, additional SI for 15 days.
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2. The prosecution's case, in brief, is that on 20/08/2022, the complainant, Dinu Patel, lodged an oral report at the Dongargarh police station, stating that he resides in Ledijob village and works as a labourer. On the same day, he had gone to watch Govinda in Dongargarh with his nephew, Chattrapal Patel. While returning to their village, they encountered Adil Sheikh, who was abusing verbally near Kewat Dharmshala in Kashmiri Para. When Chattrapal asked Adil why he was using abusive language, Adil pulled out a knife and chased Chattrapal, stabbing him in the stomach with the intent to kill. The complainant and Khemchand Mandavi, who was following them, took Chattrapal to the government hospital in Dongargarh for treatment. Based upon such report, the police has registered the FIR as Crime No. 610/2022 for the offence punishable under section 307 of IPC against the accused person.
3. The prosecution has in all examined 11 witnesses and exhibited 18 documents to prove its case. The accused was examined under Section 313 CrPC, abjured the guilt and pleaded false implication. After conclusion of trial and considering the evidence of prosecution witnesses and material available on record, learned Trial Court by impugned judgment convicted and sentenced the appellant, as mentioned above.
4. At this stage, learned counsel for the appellant submits that he does not challenge the finding of conviction but since the

occurrence is related to the year 2022 and the accused appellant is in jail since 22.08.2022 about 03 years, 6 months and 5 days, therefore, he prays that the sentence awarded to the appellant for the aforesaid offence may be reduced to the period already undergone by him.

5. Per contra, learned State Counsel supports the impugned judgment and opposes the arguments advanced on behalf of the Appellant. He submits that there are other two criminal antecedents of the present appellant, involving charges of assault.
6. I have heard learned counsel for the parties and have also perused the material available on record including the impugned judgment.
7. Dr. S. Chaudhari (PW-2) testified that he examined Chattrapal Patel, aged 35 years, resident of Lediajob, at the Community Health Centre, Dongargarh. Upon examination, he found the patient conscious and oriented with a stab wound on the abdomen and the small intestine protruding out. The injury was caused by a sharp object. After providing primary treatment, the patient was referred to the Medical College Hospital, Rajnandgaon, for further treatment. The medical examination report is Exhibit P-2.
8. Dr. Vishwanath Bhagat (PW-10) stated that the injured was admitted to the Government Medical College, Pendri, Rajnandgaon, on 20.08.2022 at 12:30 AM. Examination revealed an external wound on the lower abdomen, deep and penetrating the peritoneum. The patient underwent surgery on

21.08.2022, which revealed four injuries to the ileum of the small intestine:

- A 1x1 cm perforation 15 cm from the ileo-caecal junction;
- A 1.5x1.5 cm perforation 20 cm from the ileo-caecal junction, with an adjacent 1x1 cm perforation;
- Another 1.1x0.5 cm perforation nearby.

9. Having gone through the material available on record and the statements of Bhisham Thakur (P.W.1), Dr. S. Chaudhari (P.W.2), Santosh Patel (P.W.3), Dinu (P.W.4), Khemchand Mandavi (P.W.5), Chatrapal Patel (P.W.6), Mukteshwar Puri (PW-8) and Dr. Vishwanath Bhagat (P.W.10), establish the involvement of the appellant in the crime in question. This Court does not find any illegality or infirmity in the findings recorded by the trial Court as regards the conviction of the appellant for the offence punishable under Section 307 of IPC and Section 25(1-b)(b) of Arms Act and it is hereby affirmed.

10. However, as regards sentence, in **Mohammad Giasuddin v. State of Andhra Pradesh (1977) 3 SCC 287**, Hon'ble Supreme Court while emphasizing the reformatory approach has expounded the words expressed by George Bernard Shaw : "If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries". Para-9 of the said judgment is quoted below :

“9. Western jurisprudes and 'sociologists, from their own angle have struck a like note. Sir Samuel Romilly, critical of the brutal penalties in the then Britain, said in 1817 :

"The laws of England are written in blood". Alfieri has suggested : 'society prepares the crime, the criminal commits it'. George Nicodotis, Director of Criminological Research Centre, Athens, Greece, maintains that 'Crime is the result of the lack of the right kind of education.' It is thus plain that crime is a pathological aberration, that the criminal can ordinarily be redeemed, that the State has to rehabilitate rather than avenge. The sub-culture that leads to anti-social behaviour has to be countered not by undue cruelty but by re-culturation. Therefore, the focus of interest in penology is the individual, and goal is salvaging him for society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today views sentencing as a process of reshaping a person who has deteriorated into criminality and the modern community has a primary stake in the rehabilitation of the offender as a means of social defense. We, therefore consider a therapeutic, rather than an in 'terrorem' outlook, should prevail in our criminal courts, since brutal incarceration of the person merely produces laceration of his mind. In the words of George Bernard Shaw : 'If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries'. We may permit ourselves the liberty to quote from Judge Sir Geoffrey Streatfield : "If you are going to have anything to do with the criminal Courts, you should see for yourself the conditions under which prisoners serve their sentences."

11. Applying the analogy laid down in **Mohammad Giasuddin**

(supra) and keeping in view the fact that the maximum sentence imposed upon the appellant is 5 years under section 307 of IPC and the appellant is in jail since 22.08.2022 about 3 year 06 months 05 days and as per the Arrest Memo (Ex.P.07), the appellant has studied upto 06th class and works as a cleaner and there are two criminal antecedents against him and thus looking to the over-all circumstances it will be just and proper if the sentence RI for 05 years awarded by the trial court for offence under section 307 of IPC is reduced to RI for 4 years.

Accordingly, The conviction u/s 307 of IPC and 25(1-b)(b) of Arms Act is maintained and the sentence under Section 307 of IPC is reduced from 05 years to 04 years. However, the sentence of fine imposed by the trial Court shall remain intact.

12. In the result, the appeal is **allowed in part** to the extent indicated here-in-above.

13. The appellant in jail since 22.08.2022 (about 3 years, 6 months and 5 days). His period of custody will be set off against the 04 year sentence.

14. Let a certified copy of this order along with the original record be transmitted to the concerned trial Court forthwith for information and necessary action. A copy of this judgment be also sent to the concerned Superintendent of Jail where the appellant is undergoing jail sentence.

Sd/-

(Sanjay Kumar Jaiswal)
Judge

Sourabh P.