

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (SJ) No. 349 of 2019

Mahendra Oraon ... Appellant
Versus
The State of Jharkhand ... Respondent

CORAM: HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY

For the Appellant : Mr. J. S. Singh, Advocate
For the State : APP

Order No. 05

Dated 14th January, 2020

I.A. No. 4167 of 2019

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

This application has been preferred by the appellant u/s 389(1) of the Cr.P.C. for grant of bail during the pendency of the appeal.

It has been stated by the learned counsel appearing for the appellant that the appellant could not have been convicted for the offence u/s 25(1-A) of the Arms Act in view of the fact that the country made loaded pistol or the Bharthua gun which was purportedly recovered from the possession of the appellant could not be termed to be a prohibited arms in terms of Section 2(1)(i) of the Arms Act. Learned counsel further submits that admittedly no explosive substance had been recovered from the possession of the appellant and therefore he could not have also been convicted for the offence u/s 5 of the Explosive Substance Act.

Learned A.P.P. has opposed the prayer made by the appellant.

It appears that from the possession of the appellant one country made pistol, two cartridges and one Bharthua gun were recovered. Learned counsel for the appellant has drawn the attention of the Court to Section 25(1-A) which deals with the punishment for carrying prohibited arms. The definition of prohibited arms finds place at Section 2(1)(i) which includes firearms so designed or adapted that, if pressure is applied to the trigger, missiles continue to be discharged until pressure is removed from the trigger or the magazine containing the missile is empty. He has further stated that no notification of the Central Government has been brought on record during the trial in terms of Section 2(1)(i)(ii) which would indicate that the arms which was recovered from the possession of the appellant was

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indeed a prohibited arm. Learned counsel for the appellant further submits that the appellant is in custody for about 18 months.

Regard being had to the aforesaid, the appellant is directed to be released on bail during pendency of this appeal, on furnishing bail bond of Rs. 10,000/- (Rs. Ten Thousand) with two sureties of the like amount each to the satisfaction of learned trial court [Additional Sessions Judge-I, Latehar] in connection with Sessions Trial Case No. 100 of 2017.

I.A. No. 4167 of 2019 stands allowed and disposed of

(RONGON MUKHOPADHYAY,J.)

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