

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J) No. 620 of 2025

....
Sahjahan Khan @ Shahjahan KhanAppellant

Versus

The State of JharkhandRespondent

CORAM: HON'BLE MR. JUSTICE SANJAY PRASAD

For the Appellant : Mr. Preetam Mandal, Advocate
For the State : Mr. Vishwanath Roy, A.P.P

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Order No: 07/Dated: 11.11.2025

This Criminal Appeal has been filed on behalf of the appellant by challenging the judgment of conviction dated 13.05.2025 and sentence dated 17.05.2025 passed in S.T No. 71 of 2023 by Sri Radha Krishan, learned Principal Sessions Judge, Jamtara in connection with Mihijam P.S Case No. 100/2022 corresponding to G.R Case No. 511A/2022 by which the appellant has been convicted for the offences under Sections 25(1)(a)/35, 25(1-B)a/35, 26/35 of the Arms Act and Section 120-B of the I.P.C and sentenced to undergo R.I for seven (07) years and to pay the fine of Rs. 5,000/-, R.I for three (03) years and to pay the fine of Rs. 2,000/- and R.I for three (03) years and to pay the fine of Rs. 2,000/- and R.I for six (06) months and to pay the fine of Rs. 500/- respectively.

2. As per the F.I.R, a raid was conducted by the informant i.e. P.W-2 after having learnt of running arms factory by the appellant and his family members on 15.10.2022. Before that even Kolkata Police vide STF PS had lodged F.I.R bearing Kolkata Case No. 31 dated 10.10.2022 instituted under Sections 120(B)/489B/489C of I.P.C and Section 25(1AA)/25(1B)(a)29/35 of Arms Act who had earlier conducted raid in the house of the appellant and for which, there was recovery of fire arms and the

instruments making fire arms from the premises of the appellant Shahjahan Khan and the F.I.R shows recovery of fire arms materials as follows:

- (i) Most Accurate AMD Drill Machine (big),
- (ii) Two big Iron Hammers,
- (iii) One Vernier Scale,
- (iv) Two Lathe Machine,
- (v) One big iron file,
- (vi) A bundle of drill chock keys, containing two keys,
- (vii) A bundle of Iron cutter, containing seven (07) pieces of cutter,
- (viii) The plastic box,
- (ix) Pistol making strips,
- (x) Sealed wooden box,
- (xi) Strip for making pistol from wooden box,
- (xii) Three semi-manufactured Iron Pistols,
- (xiii) A bundle of five semi-manufactured barrels,
- (xiv) A bundle of six semi-manufactured iron pistol butts,
- (xv) A bundle of three semi-manufactured pistol parts with holes,
- (xvi) Iron leaf with a wide hole.

I.A No. 11565 of 2025

3. I.A No. 11565 of 2025 has been filed on behalf of the appellant for suspension of sentence and for grant of bail during pendency of this Criminal Appeal.

4. Learned counsel for the appellants has submitted that the impugned judgment of conviction and sentence passed by the learned Court below is illegal, arbitrary and not sustainable in the eye of law. It is submitted that the appellant is innocent and has committed no offence. It is submitted that P.W-8 and P.W-9 namely Gulam Khan and Jamal Khan respectively, are seizure list witnesses and they have been declared hostile by the prosecution and they have not supported the prosecution case. It is submitted that the learned Court below has failed to consider that there is no material evidence on record to prove the involvement of the appellant in the offence.

It is further submitted that the learned Court below has also failed to consider that as per P.W-12 there were 500-1000 people living in the village, but, no independent witness has

supported the prosecution story and all the witnesses are police personnels. It is submitted that the statements of the witnesses suffer from material contradictions which casts serious doubt on the prosecution case.

It is submitted that P.W-12 Ashok Kacchap, who is the I.O of the instant case, has admitted during his cross-examination that he had not received sanction order against the appellant from the DC till he submitted charge sheet which is mandatory for prosecution under the Arms Act.

It is further submitted that the appellant has neither been apprehended from the alleged place of occurrence nor any incriminating article has been recovered from his possession. It is submitted that the appellant is an old aged person and he was serving in the Civil Courts at Jamtara for approx 30 years.

5. It is submitted that the co-accused persons namely Md. Imtiyaz @ Abbu and Sarfaraj Khan @ Laltu have been granted bail by the Hon'ble Division Bench of this Court in Criminal Appeal (D.B) No. 745 of 2025 and Criminal Appeal (D.B) No. 765 of 2025 vide order dated 16.09.2025 and 22.09.2025 respectively for the same F.I.R, although, the trial were held separately and their judgment and sentence was passed separately. It is submitted that the appellant is in custody since 27.03.2023 and hence, the appellant may be enlarged on bail.

6. Learned counsel for the State has opposed the prayer for bail and submitted that the appellant was running Arms Factory in his second house and huge arms and ammunitions had been recovered from his house i.e. recovery of one big Drill Machine of 42 inches, two big Iron Hammers, two small Iron Hammers, one Warner Scale, two lathe machine, one big iron file, one piece of Grinder Stone, a bundle of drill chock having two keys, verma beet of one bundle containing ten pieces, a bundle of Iron Cutter

containing seven pieces, plastic box, 05 pieces of pistol making strips, sealed wooden box received from FSL, one strip for making pistol from wooden box, 03 semi-manufactured barrels, a bundle of 05 semi-manufactured barrels, a bundle of 06 semi-manufactured barrels, a bundle of 03 semi-manufactured pistol parts with holes and iron leaf with a wide hole etc. which were marked as Material Exhibits as MO-1 to M.O-22.

7. It is further submitted that P.W-2 Pranay Satyam is the informant of this case and he has fully supported the case regarding recovery of fire arms as mentioned above from the premises of the appellant belonging to him and he further stood the test of cross-examination and there is nothing in his cross-examination to contradict his evidence. It is further submitted that evidence of P.W-2 i.e. the informant has fully supported from the evidence of P.W-1 Chandan Kumar Singh, P.W-3 Anup Kujur, P.W-6 Thakur Hansda, P.W-7 Chunna Kumar Singh, P.W-10 Jaideo Murmu and P.W-11 Ravilal Marandi.

It is further submitted that P.W-12 Ashok Kacchap is the I.O of this case and he also supported and corroborated the prosecution case and is also recorded the confessional statement of other co-convict Sabina Khatun and Hasina Khatun marked as Exhibit-P-5 and Exhibit-P-6 respectively. He also stated that the house belongs to the appellant Shahjahan Khan. It is submitted that the appellant Shahjahan Khan along with Md. Imityaz @ Abbu and his son used to do delivery of arms and supply to the concerned places and hence, the prayer for bail of the appellant may be rejected.

8. Perused the Trial Court Records of this case and considered the submissions of both the sides.

9. It transpires from the F.I.R that a raid was conducted by the informant i.e. P.W-2 after having learnt of running Arms

Factory by the appellant and his family members on 15.10.2022. Even earlier Kolkata Police vide STF PS Kolkata Case No. 31 dated 10.10.2022 had instituted F.I.R against the appellant for the offences under Sections 120(B)/489B/489C of I.P.C and Section 25(1AA)/25(1B)(a)29/35 of Arms Act and who had conducted raid in the house of the appellant and in which, there was recovery of materials/articles used for manufacturing fire arms and the instruments from the premises of the appellant Shahjahan Khan.

10. It appears from the above that huge arms and ammunitions had been recovered as already mentioned at Para-2 of this order and hence, the same are not being repeated here.

11. It transpires from the confession of the co-accused Sabina Khatun and Hasina Khatun respectively, that the said premises from where, the said arms were recovered, belong to the appellant Shahjahan Khan and the appellant was running the arms factory since long.

12. It also reveals from the F.I.R that Kolkata Police had conducted raid in the house of the appellant some days earlier on suspicion of supplying arms and also running counterfeit notes/coins. However, the local police i.e the informant has instituted case only under the provisions of Arms Act under Section 25(1AA)/25(1B)(a)29/35 of Arms Act.

13. It transpires that during trial, the prosecution got examined thirteen (13) witnesses and P.W-2 i.e. the informant of this case whereas, P.W-1, P.W-3 to P.W-7 and P.W-10 to P.W-13 are the police personnels whereas, P.W-8 and P.W-9 are the seizure list and independent witnesses, who have been declared hostile by the prosecution.

14. It transpires that the charges were framed on 29.08.2023 against appellant Shahjahan Khan with his son Sarfaraj Khan and Md. Imtiyaz @ Abbu for committing the offences under Section

120B of the I.P.C and Sections 25(1-AA)/35, 25(1-B)(a)/35, 26/35 of the Arms Act.

15. It further transpires that the learned Trial Court held in its impugned judgment that co-convict Sarfaraj Khan @ Laltu and Md. Imtiyaz @ Abbu are the master minds of running arms factory and the appellant Shahjahan Khan is the head of the family and he had full knowledge of running Arms Factory.

16. It also transpires that the learned Court below has acquitted the appellant and other convicts from the offence under Section 25(1-AA)/35 of the Arms Act but has convicted the appellant under Sections 25(1)(a)/35, 25(1-B)(a)/35 and Section 26/35 of the Arms Act.

17. It transpires from the impugned judgment of the learned Court below at Para- 46 and 47 that details of fire arms recovered from the house of the appellant has been mentioned in detail and which were marked as MO-1, MO-2, MO-3, MO-4, MO-5, MO-6, MO-7, MO-8, MO-9, MO-10, MO-11, MO-12, MO-13, MO-14, MO-15, MO-16, MO-17, MO-18, MO-19, MO-20, MO-21 and MO-22 respectively and details of which have also been mentioned in this order earlier at Paragraph-2 as well as in the impugned order of the learned Trial Court and the learned Trial Court has passed a well reasoned speaking order that all the materials could be used for manufacturing the fire arms like pistols as well as Mauser and barrel(s) of pistol(s).

18. So far as the oral evidence is concerned, P.W-2 is the informant of this case and he has fully supported the case as disclosed in the F.I.R and has supported the factum of recovery of fire arms. He also stated during his evidence that accused ladies have stated before him that her husband and Shahjahan Khan i.e. the appellant used to manufacture arms illegally and they used to call for personal artisan from Munger and they also used to

supervise the manufacture work and used to visit Railway Station and supply fire arms to selected persons.

During cross-examination, the defence has not confronted him on the seizure of arms from his house rather, he was asked some formal questions.

19. Thus, the evidence of P.W-2 is intact on account of recovery of material/articles which were used for manufacturing prohibited and restricted fire arms from the house of the appellant.

20. It reveals that P.W-1 Chandan Kumar Singh and P.W-3 Anup Kujur had accompanied the informant and they are eye witnesses and they have supported the case of the informant regarding recovery of fire arms and instruments for making fire arms, lathe machine etc. and stated that at the time, two ladies Sabina Khatun and Hasina Khatun were present in this house and male members had absconded. However, both P.W-1 and P.W-3 had stated that the appellant Shahjahan Khan and his son were involved in manufacturing and supplying of illegal fire arms.

21. P.W-5 Lilmuni Marandi and P.W-6 Thakur Hansda are the “Mahila Hawaldar” and they have also supported the fact of knowledge of gun factory during raid and they had stated that two females were apprehended and one was Hasina Khatoon whereas, the other was Sabina Khatoon.

22. P.W-6 Thakur Hansda, P.W-7 Chunna Kumar Singh, P.W-10 Jaideo Murmu and P.W-11 Ravilal Marandi are also constables and they are also the eye witness and they have supported the prosecution case regarding recovery of fire arms and instruments for making fire arms from the house of the appellant.

23. P.W-8 Gulam Khan and P.W-9 Jamal Khan are the seizure list witnesses and they have also admitted their signature on the seizure list but they have been declared hostile by the prosecution

as they have shown ignorance about the recovery of fire arms from the house of the appellant.

However, mere denial of P.W-9 cannot deny the recovery of huge fire arms and instruments for making fire arms from the house of the appellant and even the hostile witnesses have admitted their signature on the seizure list marked as Exhibit-1/2.

It is well settled that even the evidence of hostile witness is admitted to the extent that they support the prosecution case.

24. P.W-12 is Ashok Kacchap, the I.O of this case has also supported and corroborated the prosecution case and he had also recorded the confessional statement of other co-convicts namely Sabina Khatun and Hasina Khatun marked as Exhibit-P-5 to Exhibit-P-6 respectively.

He also proved three photographs of the seized articles and the forwarding application of photographs marked as Exhibit-P-7 and photographs were marked as Exhibit-X, Exhibit-X/1 and Exhibit-X/2 respectively as the seized fire arms were huge and it was not possible to brought them before the Court. He has mentioned in detail regarding the seized fire arms and instruments for manufacturing fire arms sent to F.S.L for examination.

25. During cross-examination, he admitted to have filed an application for taking the accused Md. Imtiyaz @ Abbu in remand in connection with Kolkata STF P.S Case No. 31/2022. He also admitted to have submitted chargesheet against the appellant and two others for the offence under Section 120B of I.P.C and Sections 25(1AA)/25(1B)(a)/26/35 of the Arms Act.

During further cross-examination, he stated that the seized material bring before the Court is not relevant in view of the fact that he also stated during his examination-in-chief that it was not possible to bring those seized fire arms material and instruments

making fire arms before the Court by making forwarding letter marked as Exhibit-P.-7 and photographs marked as Exhibit-X, Exhibit-X/1 respectively.

26. It appears that the appellant was working in Civil Courts, Jamtara for more than thirty (30) years and thus, the appellant is aware of consequences of keeping the fire arms in his house and he cannot be said to be innocent.

27. So far as the grant of bail to other co-convicts is concerned, this Court respectfully differs from the view of Hon'ble Division Bench of this Court passed in Criminal Appeal (D.B) No. 745 of 2025 on 16.09.2025 in the case of Md. Imtiyaz @ Abbu by which the Division Bench of this Court has granted bail to the co-convict Md. Imtiyaz @ Abbu merely on the ground of manner of implication of the appellant and also no recovery from the conscious possession of the appellant.

However, in the instant case, the appellant cannot deny the house in question belong to him.

28. This Court further respectfully differs from the view of Hon'ble Division Bench of this Court passed in Criminal Appeal (D.B) No. 765 of 2025 on 22.09.2025 in the case of Sarfaraj Khan @ Laltu by which the Division Bench of this Court has granted bail to the said co-convict Sarfaraj Khan @ Laltu on the ground that he is the son of Shahjahan Khan i.e. the appellant and the appellant had rented out the premises of one Md. Imtiyaz @ Abbu but during trial, no such evidence was brought on record to show that the house was given on rent by Shahjahan Khan to one Md. Imtiyaz @ Abbu.

29. This Court finds that there is no discussion regarding the recover of huge fire arms and ammunitions as mentioned above from the house of the appellant and also the fact that even Kolkata Police had recovered the huge fire arms and ammunitions and

instruments for manufacturing counterfeit notes/coins from the house of the appellant.

30. This Court being conscious of judicial precedent for not agreeing with the order of the Hon'ble Division Bench of this Court but in view of non-discussion of material facts in Criminal Appeal (D.B) No. 745 of 2025 and Criminal Appeal (D.B.) No. 765 of 2025 and as such, this Court is not inclined to grant the appellant namely Shahjahan Khan @ Shahjahan Khan on bail.

31. It is evident that the appellant is involved in Anti-National work and he used his house for carrying anti-national activities.

32. The State Government ought to have referred the matter to N.I.A/C.B.I for carrying such an illegal activities by the appellant.

33. Even the District Administration ought to have preferred an appeal for enhancement of sentence against the appellant but they failed to do so.

34. In view of the discussion made above, the prayer for bail of the appellant namely Shahjahan Khan @ Shahjahan Khan is, hereby, rejected.

35. Thus, I.A No. 11565 of 2025 is rejected and stands disposed of.

(Sanjay Prasad, J.)

Dated: 11.11.2025

Avinash/