

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.423 of 2006**

Sunder Mistry, Son of Late Ganauri Mistry, Resident of Village- Malheya,
Police Station- Tekari, District- Gaya.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Vipul Sinha, Advocate (<i>Amicus Curiae</i>)
For the State	:	Mr. A. M. P. Mehta, APP

**CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
CAV JUDGMENT**

Date: 09-07-2025

Heard Mr. Vipul Sinha, learned *Amicus Curiae*
for the appellant and Mr. A. M. P. Mehta, learned APP for the
State.

2. The present appeal has been filed under Section 374(2) of Code of Criminal Procedure, 1973 (hereinafter referred as 'Cr.P.C') challenging the Judgment and order of conviction dated 19.05.2006 and 20.05.2006 passed by the learned Additional Sessions Judge, F.T.C.-Vth Gaya in Sessions Trial No. 286 of 2004 / 724 of 2004 under Section 25 (1) AA of the Arms Act and the appellant has been sentenced to undergo rigorous imprisonment for eight years and has also been directed to pay a fine of Rs. 5,000/- and in default of payment of fine further rigorous imprisonment for a period of one year.

3. The brief fact leading to the filing of the present appeal is that on the basis of the written/self statement



of the informant, Officer-in-charge, Tekari P.S., Sub-Inspector Dina Nath Mandal that on 09.07.2003 while he was present at police station at about 2:10 PM. received information that the accused involved in other case of Tekari Police Station case no. 182 of 2000 under Section 25 (1-A) AA of Indian Arms Act and Section 17 C.L.A. Act namely Sanjay Mistri and Sunder Mistri of village Maleha, who have been recently released from the Jail are manufacturing and also supplying Fire Arms to extremists. Thereafter he made a Sanha no. 185 dated 09.07.2003 and proceeded immediately to village Maleha along with S.I. Prakash Kr. Sinha, A.S.I. Bahadur Lal Das, Hav. Ram Narain Yadav, Constable no. 19 Ravinder Paswan, Constable 1706 Shashi Kant Sharma, Constable 1714 Furkan Ahmad, Arakshi 304 Mohd. Irfan Ansari and Dafadar Surender Singh and in the said course he saw two persons fleeing away towards opposite sides and police force tried to chased them but the said persons have succeeded to flee away and could not be nabbed by the police. Both the persons were identified by Dafadar Surender Singh as Sanjay Mistri and Saunder Mistri. In presence of two independent witnesses namely Ram Chander Sao of village Maleha and Ram Ashray Singh of village Noni, P.S. Tekari, District Gaya, the house of Sanjay Mistri and



Sunder Mistri, was searched and during the said course a Mini gun factory unearthed and altogether 24 articles such as:

- i. incomplete stain gun, (length of butt about 11½ ", the length of stand 4½ ", length of barrel 13"),*
- ii. Incomplete stain gun (length of back 11½") length of 4", length of barrel 13"),*
- iii. Two trager pin,*
- iv. Two firing pin,*
- v. Two trager guard,*
- vi. S.L.R.empty cartridges,*
- vii. One 315 empty cartridges.*
- viii. One Grill Machin,*
- ix. One Generator set,*
- x. One Bhanti set,*
- xi. Three reti,*
- xii. One dragger,*
- xiii. Three piece building rod,*
- xiv. 12 piece of Chenif different size,*
- xv. 17 piece Topna,*
- xvi. welding holder one piece,*
- xvii. One piece Guna Machine,*
- xviii. Seven small piece of Burma,*
- xix. One piece key, to open drill,*
- xx. four piece of Sarsi,*
- xxi. Three piece small Hammer,*
- xxii. Two piece iron blade,*
- xxiii. One piece stain with wooden,*
- xxiv. Welaiti Nehai were recovered.*

3.i. Seizure list was prepared there, in presence of independent witnesses and they put their signature upon it. The Informant came to know from the villagers that Sunder Mistri and Sanjay Mistri are making supply of fire arms to



extremists organization.

4. Further on the basis of the written statement of the informant, a formal F.I.R was registered in Tekari P.S. Case No. 118 of 2003, which was instituted on 09.07.2003 for the offences under Sections 25(1-A) AA of the Arms Act and Section 17 of C.L.A. Act. After investigation, charge-sheet was submitted against Sunder Mistri and one Sanjay Mistri and cognizance was taken by Chief Judicial Magistrate, Gaya on 08.10.2003, the case was split up of Sanjay Mistri and the case was sent to the Court of learned Judicial Magistrate Ist Class, Gaya who committed the case to the Court of Sessions on 07.10.2004 as the offences are exclusively triable by the Court of Sessions.

5. On behalf of prosecution, altogether 8 witnesses were examined to substantiate the charges levelled against the appellant, who are namely, PW-1 Ram Chandra Sae @ Ramchand Sas, PW-2 Ram Ashray Singh PW-3 Dina Nath Mandal (Informant), PW-4 Dafadar Surendra Singh, PW-5 Hav. Ram Narain Yadav, PW-6 Constable 1706 Shashi Kant Sharma, PW-7 -Ravindra Kr. Verma, and PW-8 Baidya Nath Pd. Gupta (Sergeant Major). PW-1 and PW-2 declared hostile by prosecution.



6. PW-3 in his examination-in-chief stated that in 2004, he was posted as S.H.O. at Tekari police station at about 2:10 PM. when he was at the police station, he received secret information that the accused namely Sanjay Mistry and Sundar Mistry of Tekari P.S. Case no. 182 of 2000 who recently came out of jail, are again involved in illegally manufacturing firearms at Village Malhaiya, and were supplying the arms to extremist. Upon receiving the information, Sanha No. 185 of 2003 was registered. After that, he formed a police team consisting of Sub-Inspector Prakash Kumar Sinha, ASI Lal Bahadur Das, Havildar Ram Narayan Yadav, Constables Ravindra Paswan, Shashikant Sharma, Furkan Ahmad, Mohammad Irfan Ansari, and Dafadar Surendra Singh, and immediately left in a police jeep for Village Malhaiya. On reaching near the house of Sanjay and Sundar Mistry, the police team began to barricade the premises. At that moment, two persons exited the house and attempted to flee away. The police party gave chase, but due to the presence of sugarcane crop in the adjoining field, the individuals succeeded in escaping. Dafadar Surendra Singh identified the fleeing persons as Sanjay Mistry and Sundar Mistry.

6.i. He further stated that he searched the house



of Sanjay Mistry, in the presence of two independent villagers, namely Ramchandra Shaw and Ramashray Singh. During the search, a mini gun factory was unearthed and in the said gun factory, two incomplete country made staingun, two trigger pin, two trigger guard, two firing pin, one Bhanti set, one Generator set, One drill machine, Welder red, Hammer, Chheni, drilling Tepna, Sarsi, Base plate etc. were recovered and a seizure list was prepared by him there, which is in his writing and signature, the seizure list was prepared at the site by him in his own handwriting and signed by him as well as the two witnesses marked as Ext.2. He further stated that he recorded his self-statement on the spot, which was marked as Exhibit-3, and then returned to the police station where a formal FIR was instituted on the basis of that statement, marked as Exhibit-4 and his statement was re-recorded by the Investigating Officer.

6.ii. In his cross-examination, he stated that only five minutes were taken to form police team consisting of 7-8 members and they left around 14:15 hours in a police jeep. The distance between Tekari and Malhaiya is approximately 5 kilometers, and they reached the village within 10 minutes. He stated that he had gone to Malhaiya village before, though he could not recall how many times. It was the first time he visited



the house of Sundar Mistry. He denied that during the rainy season the jeep could not be used due to *kaccha* road. The identification of the house was made on the guidance of Dafadar Surendra Singh. The fleeing persons were chased for about 100 yards, but the effort was failed due to dense sugarcane fields. He could not state the exact area of sugarcane cultivation. He had inquired from villagers about the occupants of the house, who stated that it belonged to Sanjay Mistry and Sundar Mistry. He denied that families of Jayram Mistry or Badri Ram Mistry resided in the house. He admitted that he did not verify ownership documents of the premises. He was unable to recall specific technical details such as the length, butt size, or barrel diameter of the seized stenguns but stated that it was of 0.315 bore.

7. PW-4 in his examination-in-chief stated that he was posted as a Dafadar at Tekari Police Station at the time of incidence, on 09.07.2003, he was also in raiding team comprising SHO Dina Nath Mandal, Sub-Inspector Prakash Sinha, Lal Babu, and other police personnel. They proceeded to Malhaiya village to conduct a raid. He further stated that while the house of Sundar Mistry was being barricade, both Sundar Mistry and Sanjay Mistry were seen fleeing from the premises.



He personally saw and identified both accused persons, and he, along with others, chased them, but they managed to escape, due to the dense sugarcane crop in the fields. During the search of the house, one *gainti* (iron rod with a sharp end), Iron nails, Chisel, Hammer, rasping file and a Semi-manufactured stun gun etc., were found. He also stated that such articles are used in illegal arms manufacturing, and that Sundar and Sanjay Mistry had previously been arrested for a similar offence.

7.i. In his cross-examination, he stated that the police party consisted of about 10-12 members, and they left Tekari Police Station between 1:30 to 2:00 PM in a jeep, and reached Malhaiya village in 10-15 minutes. The distance between Tekari and Malhaiya is about 5 km, and the road is *kaccha*. Though it was the rainy season, there was no water in the Morhar river, and the road condition allowed running of jeep. He further stated that he was familiar with Malhaiya village and Sundar Mistry as he visited the village earlier. He stated that Sundar Mistry lived with his brothers, although they had separate occupations and lived separately within the same house. He specifically mentioned that the Sub-Inspector had asked him to point out Sundar Mistry's house, and he had indicated so. The accused fled eastwards, and their escape was



facilitated by the sugarcane crop obstructing visibility.

7.ii. The seized articles were brought out of the house on the SHO's instruction. He further stated he did not know the measurements of the recovered items and had not signed the seizure list, which was prepared by the SHO at the spot and signed by two local witnesses Ramchandra and another villager. He also stated that females were present in the house, but he was unaware whether the seizure memo was handed over to them. The entire process of seizure and documentation at the village took around one hour. They returned to the police station around 4:00 PM. He further stated that the SHO has not recorded his statement, and he was unaware whether the articles were sealed either at the spot or at the police station. He stated that upon return, the seized articles were handed over to Sub-Inspector Zakir Hussain.

8. PW-5 in his examination-in-chief stated that in 2003, he was posted at Tekari Police Station, on 02.07.2003, he received secret information about manufacturing of an illegal arms in Malhaiya village. Acting on this information, he proceeded to the said village along with SHO Dina Nath Mandal and other constables to conduct a raid. Upon reaching the house of Sundar Mistry, the witness stated that both the



accused persons Sundar Mistry and Sanjay Mistry fled upon seeing the police party. A search of the premises was then conducted, and a seizure list was prepared at the spot. According to the witness, one manufactured carbine, semi-manufactured carbines, lathe machine, various parts and tools used in arms manufacturing, including hammer, chisel, iron blades, and other materials were found and seized.

8.i. He further stated that all the seized articles were subsequently brought to the police station. He also stated that Sundar Mistry and his son Sanjay Mistry had previously been arrested for similar offences related to illegal arms manufacturing. He further stated that the information was received on 02.07.2003 at around 11:45AM. and within half an hour, the police team moved towards Malhaiya village. He was unable to specify the exact distance of the village from the police station. He stated that the raiding party consisted of about eight persons, though he did not recall the number of constables.

8.ii. He further stated that no male member was present inside the house and the accused persons were seen fleeing in the opposite direction. He also stated that the seized articles were not sealed at the spot by the Sub-Inspector. He



further stated that he recognized the difference between a carbine, a country-made pistol, and a rifle, but he could not state about the length of the seized carbine. Furthermore, he did not recall the number or ownership of the tractor used to transport the seized items to the police station. He also stated that the seized articles were not produced in Court. He further stated that his statement was recorded by SHO Dina Nath Mandal at the police station.

9. PW-6 in his examination-in-chief stated that on 09.07.2003, he was posted at Tekari Police Station. On that day, he accompanied the Station House Officer (SHO) Dina Nath Mandal, along with one Havildar and five constables, to Malhaiya village to conduct a raid. He further stated that upon reaching the house of the accused persons Sundar Mistry and Sanjay Mistry, the police party barricade the premises. At that time, one person fled from the house carrying a jhola (carry bag). The police personnel chased him, but he managed to escape after throwing the jhola, and upon opening the said jhola, two carbines and iron/steel materials used for weapon manufacturing were found and seized. A seizure list was prepared at the spot, although the witness could not identify the same in Court.



9.i. In his cross-examination, he stated that Malhaiya village is situated at a distance of 7–8 kilometers from Tekari, and at the time of the raid, there was water in the Morhar river, which they crossed by foot. He was unable to recall the exact time at which the police party reached at the house of Sundar Mistry. He further stated that the search of Sundar Mistry's house was conducted in his presence. He saw the SHO entering the house and seizing various articles such as a generator, a long iron rod (gaiti), chisel, and hammer but the seizure list of weapons and equipment was not prepared in his presence.

10. PW-7 in his examination-in-chief stated that he is acquainted with the prosecution sanction form (proforma) related to the present case. He stated that the said proforma was filled by one Ajay Babu and bears the signature of the then District Magistrate, Shri Brajesh Malhotra. The witness identified the document and it was marked as Exhibit-5. In his cross-examination he stated that he does not possess any specimen signature of Shri Brajesh Malhotra for verification purposes. He also stated that there are six assistants working in the legal department, and he does not have specimen signatures of all of them. He also stated that the sanction proforma was not



filled in his presence.

10.i. He cannot recall the name of the constable who typed it. The name of the accused is not mentioned on the material exhibit, only case number and the name of CJM Court is mentioned there. He cannot state that whether the material exhibit brought before him for inspection was sealed or not. He further stated that he has not mentioned the length of the material exhibit in inches in the report. It is not true to say that the material exhibit which is not effective is not a firearm. The material exhibit which is not effective is also evaluated. If toy pistol is brought, then it is not considered as a firearm.

11. PW-8 in his examination-in-chief stated that on 16.08.2003, he was posted as Sergeant Major in Gaya District, firearms presented before him for the inspection by S.I. Zakir Hussain of Tekari P.S. in connection with Tekari P.S. Case No. 118 of 2003 dated 09.07.2003, registered under Section 25 (1-B) (a) of the Arms Act and Section 17 of the Criminal Law Amendment Act. Upon inspection, he found that the seized firearm was a semi-manufactured iron-made Stengun. Its barrel length was 34 cm, and the overall length was 56 cm. The weapon was found split into two parts. The inspection report is prepared by constable Prashant Kumar Verma as per directions



given by him and upon which he signed after reading and finding it correct and it is marked as Ext.- 6. After inspection, all the exhibits were returned to S.I Zakir Hussain.

11.i. In his cross-examination, he stated that the name of the accused was not mentioned on the exhibits, only the case number and the name of the CJM Court were mentioned. He was unable to confirm whether the exhibits were sealed at the time of inspection, and no such detail was recorded in the report. He further stated that the length of the material exhibits were not mentioned in inches, and admitted that the report did not contain details of whether the material was sealed or how the diameter was recorded. The diameter of the barrel, which was .315, was measured using slide calipers. He explained that such measurements are usually taken in centimeters, millimeters, or inches, and that “bore” is a valid unit of diameter in this context. He clarified that toy weapons are excluded from such classification.

12. After closure of the prosecution evidence, the appellant was examined under Section 313 of the Cr.P.C where they claimed that the prosecution evidence is false and they are innocent and have been falsely implicated in the present case.



13. The learned *Amicus curiae* submitted that the impugned judgment of conviction and order of sentence are not sustainable in the eye of law or on facts. Learned trial Court has not applied its judicial mind and erroneously passed the judgment of conviction and order of sentence and from perusal of the evidences adduced on behalf of the prosecution it is crystal clear that the prosecution's case is false and fabricated.

13.i. The learned *Amicus curiae* further submitted that Investigating Officer has not been examined therefore place of alleged occurrence (recovery of alleged arms) not proved. As per prosecution case the recovery was made to the house of appellant Sunder Mistri, Whereas, PW-6, one of the members of raiding party has stated in para 1 of his deposition that “a man ran away from the house with a bag and when chased, he left the bag and ran away”. Again, in para 2 the witness has stated that “there were 2 carbines in the bag and some weapons were found”. Meaning thereby the alleged recovery was not made from the house of the appellant. He further submitted that PW-3-Dina Nath Mandal the informant of this case and has stated in para 2 & para 11 of his deposition that Dafadar Surender Singh (PW-4) had identified the appellant as well as his house, however, PW-4 has stated in para



4 of his deposition that "Sundar Mistri (appellant) has 3 brothers, and all three of them lives in the same house". Therefore, it cannot be safely concluded that the alleged place of recovery belongs to appellant exclusively.

13.ii. He further submitted that there is a vital contradiction in the time of alleged raid and recovery. As per prosecution case the informant received secret information regarding the manufacturing of illegal arms by the appellant on 09.07.2003 at 14:10 hours, whereas PW-5 Ram Narayan Yadav, Hawaldar and member of raiding party has stated in para 4 that the secret information was received on 02.07.2003 at 11:45 AM. Moreover, this witness has stated in para 9 his statement in police was recorded by D.N. Mandal, officer-in-charge, who is admittedly informant of the present case. As per prosecution case, the appellant and his house from where the alleged recovery was made, was identified by the Dafadar Surendra Singh (PW-4). However, in para 12 of his deposition stated that Daroga Ji did not record his statement was not taken u/s 161 of Cr.P.C. during the investigation.

13.iii. He further submitted that the alleged recovered items, mentioned in ext. 2, seizure list, were not sealed. PW- 5, one of member of raiding party, has stated is



para 1 that recovered items were not sealed by Daroga Ji on the place of occurrence and this fact finds support from by PW-8 in para no. 6 of his deposition. Seized articles not produced in court, hence it cannot be said that alleged seizure was regarding semi-manufactured arms. Since the alleged recovered articles were not produced before the Court hence it cannot be said that the alleged recovered articles were prohibited arms and as it was violation of section 7 of Arms Act. The seizure list witnesses, PW-1 & PW-2 did not support the prosecution case and have stated that nothing was recovered in their presence and signature were taken by the police on plain paper.

13.iv. Learned *Amicus Curiae* for the appellant lastly contended that in view of the aforesaid facts and circumstances, the prosecution has failed to prove its case beyond shadow of all reasonable doubts that firearms was recovered from the house of the appellant. Hence, the prosecution case against the appellant fails on this ground alone. So, the appellant should have been acquitted from the conviction as sentenced against him.

14. However, learned APP for the State defends the impugned judgment of conviction and the order of sentence submitting that there is no illegality or infirmity in the



impugned judgment and order of sentence, because prosecution has proved its case against the appellant. In view of the aforesaid statements and the evidence on record, learned trial Court has rightly convicted the appellant and the present appeal should not be entertained.

15. At this stage, I would like to appreciate the relevant extract of entire evidence led by the prosecution before the Trial Court. I have thoroughly perused the materials on record and as well as given thoughtful consideration to the submissions advanced by both the parties.

16. On deeply studied and scrutinized all evidences, it is evident to note here that there are serious inconsistency in the deposition of prosecution witnesses such as PW-3 in para no.3 of his deposition stated that the raiding team consisted of 10-12 members which is inconsistent with other prosecution witnesses as they stated there were 7-8 members in the raiding team. Further, PW-4 in para no. 8 of his deposition stated that he did not know the villagers who all gathered there at that time of occurrence, but further on contrary to this in para no.11 of his deposition, he stated that he know the people of that village and also stated that he knows Sunder Mistry too. Moreover, with respect to the date and time of alleged



occurrence, there are vital inconsistencies in the prosecution case as PW-5 in para no.1 of his deposition stated that the date of alleged occurrence is 02.07.2003 and time is about 11:45 AM which is inconsistent with all the other prosecution witnesses. Further, regarding the place from where the fire arms and seized material were recovered, PW-6 creates the suspicion by stating in para no.1 of his deposition that one person fled from the house carrying a jhola (carry bag) throwing the jhola, and upon opening the said jhola, two carbines and iron/steel materials used for weapon manufacturing were found and seized. PW-6 in para no. 4 of his deposition stated that there was water in the river and they crossed it by foot which is not corroborated by all other prosecution witnesses as they all stated that there was no water in the river and we crossed it by jeep itself.

17. Moreover, the seized article has also not been produced before the Court which is fatal to the prosecution case and it creates a suspicion with regard to raid as alleged by the prosecution. In the present case, the Investigating Officer has also not been examined which creates doubts in the prosecution case and accused has been prejudiced due to non examination of the Investigating Officer. The Investigating Officer's testimony was crucial for establishing the facts of the



case, including the collection of the evidences, the credibility of the witness's statement and overall integrity of the investigation, the prosecution has not succeeded in proving the charges against the appellant reasonably and beyond shadow of all reasonable doubts.

18. The Investigating Officer has not been examined during the course of trial and non-examination of Investigating Officer is fatal to the case of the prosecution. The Supreme Court in **Habeeb Mohammad vs The State of Hyderabad 1954 AIR 51, 1954 SCR 475** pointed out that-

“It was the duty of the prosecution to examine all material witnesses who could give an account of the narrative of the events on which the prosecution is essentially based and that the question depended on the circumstances of each case. In our opinion, the appellant was considerably prejudiced by the omission on the part of the prosecution to examine Biabani and the other officers in the circumstances of this case and his conviction merely based on the testimony of the police jamedar, in the absence of Biabani and other witnesses admittedly present on the scene, cannot be said to have been arrived at after a fair trial, particularly when no satisfactory explanation has been given or even attempted for this omission. A police Jamedar in the absence of Biabani and other witnesses admittedly present on the



scene, cannot be said to have been arrived at after a fair trial, particularly when no satisfactory explanation has been given or even attempted for this omission.”

19. The Hon’ble Apex Court in the case of **Munna Lal Vs. State of Uttar Pradesh**, reported in **2023 SCC OnLine SC 80** whose relevant paragraph Nos.- 28 and 39 of the said judgment are reproduced here-in-below:

“28. Before embarking on the exercise of deciding the fate of these appellants, it would be apt to take note of certain principles relevant for a decision on these two appeals. Needless to observe, such principles have evolved over the years and crystallized into ‘settled principles of law.’ These are:

(a).....

(b).....

(c). A defective investigation is not always fatal to the prosecution where ocular testimony is found credible and cogent. While in such a case the court has to be circumspect in evaluating the evidence, a faulty investigation cannot in all cases be a determinative factor to throw out a credible prosecution version.

(d). Non-examination of the Investigating Officer must result in prejudice to the accused; if no prejudice is caused, mere non-examination would not render the prosecution case fatal.

(e).....

“39. Secondly, though PW-4 is said to have



reached the place of occurrence at 1.30 p.m. on 5th September, 1985 and recovered a bullet in the blood oozing out from the injury at the hip of the dead body, no effort worthy of consideration appears to have been made to seize the weapons by which the murderous attack was launched. It is true that mere failure/neglect to effect seizure of the weapon(s) cannot be the sole reason for discarding the prosecution case but the same assumes importance on the face of the oral testimony of the so-called eye- witnesses, i.e., PW-2 and PW-3, not being found by this Court to be wholly reliable. The missing links could have been provided by the Investigating Officer who, again, did not enter the witness box. Whether or not non-examination of a witness has caused prejudice to the defence is essentially a question of fact and an inference is required to be drawn having regard to the facts and circumstances obtaining in each case. The reason why the Investigating Officer could not depose as a witness, as told by PW-4, is that he had been sent for training. It was not shown that the Investigating Officer under no circumstances could have left the course for recording of his deposition in the trial court. It is worthy of being noted that neither the trial court nor the High Court considered the issue of non-examination of the Investigating Officer. In the facts of the present case, particularly conspicuous gaps in the prosecution case and the evidence of PW-2 and PW-3 not being wholly reliable, this Court holds the present case as one where examination of the Investigating Officer was vital since he



*could have adduced the expected evidence
His non-examination creates a material
lacuna in the effort of the prosecution to
nail the appellants, thereby creating
reasonable doubt in the prosecution case.”*

20. Further, Investigating Officer has also not been examined during the course of trial as it was fatal since he could have adduced the expected evidence and his non-examination creates a material lacuna in the effort of the prosecution to nail the appellant, thereby creating reasonable doubt in the prosecution case and the learned trial Court failed to scrutinize the evidences brought on record regarding deficiencies, drawbacks and infirmities crept during course of trial and passed the impugned judgment in complete ignorance of criminal jurisprudence. So, considering the aforesaid facts, the prosecution has failed to establish his case beyond shadow of all reasonable doubts, therefore, in such circumstances it may not be proper to convict the appellant on the materials available on record, therefore, the benefit of doubts inclined in favour of the appellant.

21. Hence, the Judgment and order of conviction dated 19.05.2006 and 20.05.2006 passed by the learned Additional Sessions Judge, F.T.C.-Vth Gaya in Sessions Trial No. 286 of 2004 / 724 of 2004 under Section 25 (1) AA of the Arms Act is



set aside and the accused/appellant is acquitted from the charges leveled against him. As the appellant is on bail, he is discharged from liability of his bail bonds.

22. Before parting with this appeal, Secretary, Patna High Court Legal Services Committee is directed to pay Rs. 8,000/- (eight thousand) to the learned Amicus Curiae, namely, Mr. Vipul Sinha towards honorarium for assisting this Court in the present appeal.

23. Let a copy of first and last page of this judgment be handed over to the advocate Mr. Vipul Sinha, learned Amicus Curiae and Office is directed to proceed further in granting honorarium to him which is to be paid by Patna High Court Legal Services Committee.

24. Accordingly, this appeal stands allowed.

25. Office is directed to send back the trial court records and proceedings along with a copy of this judgment to the trial court, forthwith, for necessary compliance, if any.

(Ramesh Chand Malviya, J)

Anand Kr.

AFR/NAFR	NAFR
CAV DATE	23.06.2025
Uploading Date	09.07.2025
Transmission Date	09.07.2025

