2026:JHHC:29905

IN THE HIGH COURT OF JHARKHAND, RANCHI

Cr. Revision No. 805 of 2026

Dudheshwar Singh, aged about 42 years, son of late Indradeo Singh, resident of Mauza Jhari, PO and PS Tandwa, District Aurangabad (Bihar), present resident of Baridih, PO and PS Baridih, District East Singhbhum, Jharkhand .... Petitioner(s)

-- Versus --

The State of Jharkhand …… ….. .... Opp. Party

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner(s) :- Mr. Anjani Kumar, Advocate
For the State :- Mr. Rakesh Kumar Singh, Advocate

2/06.10.2026 I.A. No.9738 of 2026 has been filed for condoning delay of 978 days occurred in filing the instant petition.

2. Learned counsel for the petitioner submits that after filing the appeal the petitioner has gone to Nagpur in the State of Maharashtra for earning his livelihood by way of driving the vehicle and in view of that after filing the present case he has not been communicated properly and in view of that such delay has occurred.

3. Learned counsel for the respondent State has got no serious objection if such delay is condoned.

4. In view of the submission made and averments made in the said I.A the said delay occurred in preferring the instant petition is hereby condoned and the instant I.A stands allowed and disposed of.

5. This petition has been preferred against the order dated

10.05.2023 passed by learned Sessions Judge, West Singhbhum at Chaibasa, in Cr. Appeal No.33 of 2023 whereby he has been pleased to upheld the order of conviction and sentence dated 28.02.2023 passed by learned Chief Judicial Magistrate, West Singhbhum at Chaibasa by which he has been convicted the petitioner for offence under section 279 of IPC and sentenced him to undergo SI for three months and the petitioner further sentenced to undergo for offence under section 427 of IPC and sentenced him to undergo RI for 1 years and both the sentences were directed to run concurrently, the petitioner already undergone into the custody, if any, would be set off under section 428 of the Cr.PC, arising out of Chaibasa Sadar P.S. Case No.105 of 2019, corresponding to G.R. Case No.166 of 2020 (T.R. No.365 of 2023).

6. Learned counsel for the petitioner submits that on the written statement of the informant namely Krishna Kant Mishra, the FIR has been registered alleging therein that on 09.08.2019 at about 05.15 p.m. the informant was going to his residence situated at Judge Colony after discharging his duty as Secretary, DLSA, Chaibasa riding Swift Dezire Car registration no.JH-09V-2873 along with bodyguard, Constable No.1451 Shibu Ruhidas while he reached at Post Office Chowk saw that offending vehicle Tanker registration No.Jh-05BD-4898 registered in the name of Petro Chemical Transport Company was driving the vehicle rashly and negligently in intoxication, he stopped his car at distance about 15-20 ft. from the said truck. Due to negligent driving of the tanker the road was blocked in both sides and people nearby moved up to the tanker to catch the driver. The driver of the tanker moved it in back side negligently and dashed against car of the informant resulted rear door and rear

bonnet of his car became damaged, with the help of local people and traffic police, the truck was caught at Mahila College and he further submits that the petitioner was the driver of the said tanker and in this background the case has been registered for dashing the vehicle of the Secretary, DLSA, Chaibasa.

7. Learned counsel for the petitioner next submits that after a full-fledged trial, the learned trial court has been pleased to convict the petitioner as aforesaid which has been affirmed by the learned appellate court by order dated 10.05. 2023. He submits that the petitioner herein has already remained in custody since 07.07.2026 and in that way he has already remained in custody of three months and the maximum sentence is of one year. He submits that so far as PW-4 who is a doctor and has been examined the doctor has found that the petitioner was in conscious condition and has not taken any intoxicated material. He next submits that the learned trial court as well as the learned appellate court have failed to appreciate this aspect of the matter and the IO has not seized the car of the informant and there is no evidence how much damage was caused and this aspect has been further missed by the learned trial court as well the leaned appellate court. He next submits that even the informant who is PW-3 has stated that he is not sure that the driver of the said vehicle was driving the vehicle negligently and he has also admitted that car was repaired by the owner of the said tanker. He next submits that even there is no eye witness and in spite of that, the petitioner has been convicted by the learned trial court which has been affirmed by the learned appellate court.

8. Learned counsel for the petitioner further submits that he is

not pressing this criminal revision petition on merit and contends that he would confine his challenged only to the quantum of punishment which has been so awarded. The following mitigating circumstance was pointed out further by the learned counsel for the petitioner that, (i) the petitioner is sole bread earner in the family, (ii) the petitioner has endured the ordeal of a prolonged criminal trial spanning over seven years and (iii) the petitioner was aged about 35 years at the time of occurrence and at present he is aged 42 years respectively and continued criminal prosecution and incarceration are likely to cause grave and disproportionate prejudice to him in discharge of his social, familial and professional obligations.

9. Learned counsel appearing for the State, on the other hand, contends that both the Courts have examined the evidence brought on record and concurrently recorded a finding of conviction against the petitioner. In a revisional jurisdiction, neither a new line of defence can be adopted nor any reappreciation of the evidence can be undertaken. No illegality or perversity has been pointed out by the petitioner; hence, no occasion would call for upsetting the findings recorded or the sentence awarded and affirmed by the Courts.

10. The Court has heard learned counsel appearing for both the sides and has gone through the impugned judgments.

11. In the present case, there is nothing on record to reflect that the petitioner possess criminal bent of mind or that their conduct pose any threat to society. Hence, by the broader principles of criminal jurisprudence, no adverse presumption can be drawn against him.

12. The Hon'ble Supreme Court has laid down certain principles to

govern the Courts in the matter of sentencing. Reference in this regard may be made to the judgment of the Hon'ble Supreme Court in the case of ***State of Punjab v. Prem Sagar and others***, reported in ***(2008) 7 SCC 550***. Paragraphs 5, 6, 7, 8, 9, 10, 11, 12, 18, 19 and 20 of the said judgment read as under:

> ***"5.*** *'Whether the Court while awarding a sentence would take recourse to the principle of deterrence or reform or invoke the doctrine of proportionality, would no doubt depend upon the facts and circumstances of each case. While doing so, however, the nature of the offence said to have been committed by the accused plays an important role. The offences which affect public health must be dealt with severely. For the said purpose, the courts must notice the object for enacting Article 47 of the Constitution of India.*
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> ***6.*** *There are certain offences which touch our social fabric. We must remind ourselves that even while introducing the doctrine of plea bargaining in the Code of Criminal Procedure, certain types of offences had been kept out of the purview thereof. While imposing sentences, the said principles should be borne in mind.*
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> ***7.*** *A sentence is a judgment on conviction of a crime. It is resorted to after a person is convicted of the offence. It is the ultimate goal of any justice-delivery system. Parliament, however, in providing for a hearing on sentence, as would appear from sub-section (2) of Section 235, sub-section (2) of Section 248, Section 325 as also Sections 360 and 361 of the Code of Criminal Procedure, has laid down certain principles. The said provisions lay down the principle that the court in awarding the sentence must take into consideration a large number of relevant factors; sociological backdrop of the accused being one of them.*
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> ***8.*** *Although a wide discretion has been conferred upon the court, the same must be exercised judiciously. It would depend upon the circumstances in which the crime has been committed and his mental state. Age of the accused is also relevant.*
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> ***9.*** *What would be the effect of the sentencing on the society is a question which has been left unanswered by the legislature. The Superior Courts have come across a large number of cases which go to show anomalies as regards the policy of sentencing. Whereas the quantum of punishment for commission of a similar type of offence varies from minimum to maximum, even where same sentence is imposed, the principles applied are found to be different. Similar discrepancies have been noticed in regard to imposition of fine.*
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> ***10.*** *In Dhananjoy Chatterjee Alias Dhana v. State of W.B. [(1994) 2 SCC 220], this Court held:*
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> > *"15...Imposition of appropriate punishment is the manner in which the courts respond to the society's cry for justice against the criminals. Justice demands that courts should impose punishment befitting the crime so that the courts*

reflect public abhorrence of the crime..."

11. *Gentela Vijayavardhan Rao and Another v. State of A.P. [(1996) 6 SCC 241], following Dhananjoy Chatterjee (supra), states the principles of deterrence and retribution but the same cannot be categorized as right or wrong. So much depends upon the belief of the judges.*

12. *In a recent decision in Shailesh Jasvantbhai and Another v. State of Gujarat and Others [(2006) 2 SCC 359], this Court opined:*

> *"7. The law regulates social interests, arbitrates conflicting claims and demands. Security of persons and property of the people is an essential function of the State. It could be achieved through instrumentality of criminal law. Undoubtedly, there is a cross-cultural conflict where living law must find answer to the new challenges and the courts are required to mould the sentencing system to meet the challenges. The contagion of lawlessness would undermine social order and lay it in ruins. Protection of society and stamping out criminal proclivity must be the object of law which must be achieved by imposing appropriate sentence. Therefore, law as a cornerstone of the edifice of 'order' should meet 7 of 14 239 CRR-913-2025 (O&M) the challenges confronting the society. Friedman in his Law in Changing Society stated that: "State of criminal law continues to be--as it should be--a decisive reflection of social consciousness of society." Therefore, in operating the sentencing system, law should adopt the corrective machinery or deterrence based on factual matrix. By deft modulation, sentencing process be stern where it should be, and tempered with mercy where it warrants to be. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration.*

Relying upon the decision of this Court in Sevaka Perumal v. State of T.N. [(1991) 3 SCC 471], this Court furthermore held that it was 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. xxx

18. *Don M. Gottfredson in his essay on "Sentencing Guidelines" in "Sentencing by Hyman Gross and Andrew von Hirsch" opines:*

> *"It is a common claim in the literature of criminal justice and indeed in the popular press that there is considerable "disparity" in sentencing. The word "disparity" has become a prerogative and the concept of "sentencing disparity" now carries with it the connotation of biased or insidious practices on the part of the judges. This is unfortunate in that much otherwise valid criticism has failed to separate justified variation from the unjustified variation referred to as disparity. The phrase "unwarranted disparity" may be preferred; not all sentencing variation should be considered unwarranted or disparate. Much of it properly reflects varying degrees of seriousness in the offense and/or*

varying characteristics of the offender. Dispositional variation that is based upon permissible, rationally relevant and understandably distinctive characteristics of the offender and of the offense may be wholly justified, beneficial and proper, so long as the variable qualities are carefully monitored for consistency and desirability over time. Moreover, since no two offenses or offenders are identical, the labeling of variation as disparity necessarily involves a value judgment- that is, disparity to one person may be simply justified variation to another. It is only when such variation takes the form of differing sentences for similar offenders committing similar offenses that it can be considered disparate."

[Emphasis supplied]

The learned author further opines:

"In many jurisdictions, judicial discretion is nearly unlimited as to whether or not to incarcerate an individual; and bound only by statutory maxima, leaving a broad range of discretion, as to the length of sentence."

19. *Kevin R. Reitz in Encyclopedia of Crime and Justice, Second edition "Sentencing guidelines" states:*

"All guideline jurisdictions have found it necessary to create rules that identify the factual issues at sentencing that must be resolved under the guidelines, those that are potentially relevant to a sentencing decision, and those viewed as forbidden considerations that may not be taken into account by sentencing courts. One heated controversy, addressed differently across jurisdictions, is whether the guideline sentence should be based exclusively on crimes for which offenders have been convicted ("conviction offenses"), or whether a guideline sentence should also reflect additional alleged criminal conduct for which formal convictions have not been obtained ("non-conviction offenses").

Another difficult issue of fact-finding at sentence for guideline designers has been the degree to which trial judges should be permitted to consider the personal characteristics of offenders as mitigating factors when imposing sentence. For example: Is the defendant a single parent with young children at home? Is the defendant a drug addict but a good candidate for drug treatment? Has the defendant struggled to overcome conditions of economic, social or educational deprivation prior to the offense? Was the defendant's criminal behavior explicable in part by youth, inexperience, or an unformed ability to resist peer pressure? Most guideline states, once again including all jurisdictions with voluntary guidelines, allow trial courts latitude to sentence outside of the guideline ranges based on the Judge's assessment of such offender characteristics. Some states, fearing that race or class disparities might be exacerbated by unguided consideration of such factors, have placed limits on the list of eligible concerns. (However, such factors may indirectly affect the sentence, since judges are permitted to base departures on the offender's particular 'amenability' to probation (Frase,

1997).)"

20. *Andrew von Hirsch and Nils Jareborg have divided the process of determining sentence into stages of determining proportionality while determining a sentence, namely:*

1. What interests are violated or threatened by the standard case of the crime-physical integrity, material support and amenity, freedom from humiliation, privacy and autonomy.

2. Effect of violating those interests on the living standards of a typical victim- minimum well-being, adequate well-being, significant enhancement

3. Culpability of the offender

4. Remoteness of the actual harm as seen by a reasonable man.'"

13. The Hon'ble Supreme Court in the case of ***Pramod Kumar Mishra v. State of U.P.***, reported in ***(2023) 9 SCC 810***, observed that punishment must not be viewed as an act of vengeance but as a means of reformation and reintegration of the offender into society. It was further held that an appropriate sentence must be determined by considering a range of factors, including the nature and circumstances of the offence, the offender's background, age, mental and emotional condition, potential for rehabilitation, prior criminal record and the deterrent needs of the community. Sentencing, the Court noted, involves a delicate exercise of judicial discretion where multiple social, psychological, and moral factors must be balanced to ensure that justice serves both societal protection and individual redemption.

14. The fundamental purpose of imposition of sentence is based upon making an accused realize the consequences of the crime committed by him and the creation of the dent in the life of the victims and also the social fabric. The same by itself does not oblige the Court to extend an opportunity to a convict for reforming himself. The principles of proportionality have to be balanced and the impact of the offence on the society as a whole and its ramifications on the victim and the

immediate collectives also has to be examined.

15. A nine-Judge Bench of the Hon'ble Supreme Court of the United States, in ***Dennis Councle McGautha v. State of California***, reported as ***402 U.S. 183 (1971)***, observed that the criteria governing sentencing neither furnish an exhaustive list of relevant considerations nor indicate how various circumstances should influence the decision-making process. In essence, these standards merely suggest broad areas for consideration and underscore the inherent difficulty in formulating uniform sentencing principles, particularly in matters of grave offences. The Court further cautioned against rigidly prescribing or mandating uniform standards for sentencing, emphasizing that the principles governing punishment must depend upon the facts and circumstances of each individual case, and that no straightjacket formula can be universally applied.

16. The underlying premise is that punishment, being in itself a necessary evil and devoid of inherent virtue, must be confined strictly within the bounds of necessity.

17. In light of the allegation made in the case in hand where interest of justice would warrant a reformative approach in precedence to a punitive or retributive approach. It is not the function of the Judges to seek the transformation of human nature itself, but rather to shape the framework within which individuals perceive that adherence to the law aligns with their own best interests.

18. In view of the above facts, reasons and analysis and considering that the petitioner has faced the rigor of criminal prosecution for about seven years since the registration of the FIR and as against the

substantive sentence of 1 year and the petitioner has already undergone sentence for about 3 months and 4 days, this Court deems it appropriate to partly allow the petition. While maintaining the judgment of conviction, the order of sentence so passed is modified. The sentence awarded under Section 279 and 427 of the Indian Penal Code by the learned Chief Judicial Magistrate, West Singhbhum, Chaibasa vide judgment of conviction and order of sentence dated 28.02.2023 and upheld by the learned Sessions Judge, West Singhbhum, at Chaibasa vide judgment dated 10.05.2023 in Criminal Appeal No.33 of 2023, is modified to the period already undergone. The petitioner will be released from custody, if not required in any other case.

19. Accordingly, this criminal revision petition is partly allowed and disposed of.

20. Pending petition, if any, also stands disposed of.

(Sanjay Kumar Dwivedi, J.)

Dated : 06.10.2026
SI/ **A.F.R.**