IN THE HIGH COURT OF JHARKHAND, RANCHI
Criminal Revision No. 13 of 2026

Mukesh Pradhan, aged about 52 years, son of Late Dashrath Pradhan, resident of KF-2/89, Tansa Road, West Kadma, PO and PS – Kadma, Town -Jamshedpur, District – East Singhbhum, Jharkhand **.... Petitioner**

-- Versus --

The State of Jharkhand **.... Opposite Party**

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner :- Mr. Abhilash Kumar, Advocate

For the State :- Mrs. Shweta Singh, Advocate

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*06/**07.10.2026*** Heard learned counsel appearing for the petitioner and learned counsel appearing for the State.

2. I.A. 1958 of 2025 has been filed for condoning the delay of 24 days in filing of the criminal revision petition.

3. Learned counsel appearing for the petitioner submits that in preparation of filing of the criminal revision petition, the delay of 24 days has occurred and in view of that the said delay may kindly be condoned.

4. Learned counsel appearing for the State has got no serious objection, if the delay of 24 days is condoned.

5. Accordingly, the prayer made in the I.A.1958 of 2025 is hereby allowed and disposed of and the delay of 24 days is hereby condoned.

6. This petition has been filed against the judgment dated 13.08.2024 passed by learned Additional Sessions Judge-II, East Singhbhum, Jamshedpur in Criminal Appeal No.247 of 2023 whereby the learned appellate court has been pleased to uphold the conviction of the

petitioner under Section 323 of Indian Penal Code and sentencing him to undergo S.I. for six months thereby partly confirming the judgment of conviction and order of sentence dated 13.10.2023 passed by learned Sub-Divisional Judicial Magistrate, Jamshedpur in G.R. Case No.127 of 2017 arising out of Kadma P.S. Case No.20 of 2017 and setting aside convicting and sentencing the petitioner to undergo RI for a period of two and half years with a fine of Rs.1,000/- for the offence punishable under Section 498-A of IPC and in default of payment of fine further sentenced to undergo RI for two months and affirming sentencing the petitioner to undergo SI for a period of six months for the offence punishable under Section 323 of IPC directing all the sentences to run concurrently and period of detention during trial to be set off from the sentence.

7. Learned counsel appearing for the petitioner submits that the petitioner has already surrendered before the learned Court on 4th June, 2026 and in that way, he has remained in custody for more than four months and for release of the petitioner on bail I.A. No.10942 of 2026 has been filed. He further submits that the petitioner happened to be husband of the informant and so far allegation of 498A of IPC is concerned that has already been set aside by the learned First Appellate Court by the impugned order itself, however, the petitioner has been only convicted under Section 323 of IPC by the learned appellate court. He then submits that there is no independent witness of said occurrence and even no injury report has been produced in the trial. He next submits that the petitioner has been falsely implicated in the case and further the

prosecution has failed to prove that the petitioner has assaulted.

8. After arguing the revision petition for some time, learned counsel appearing for the petitioner contends that petitioner has already remained in custody for more than four months. In this background, he submits that he would not press the present criminal revision petition on merits and contends that he would confine his challenge only to the quantum of punishment that has been so awarded. The following mitigating circumstances are pointed out by the learned counsel appearing for the petitioner :

(i) The petitioner is sole bread earners in the family.

(ii) The petitioner has endured the ordeal of a prolonged criminal trial spanning over eight years.

(iii) The petitioner is aged about 55 years and continued criminal prosecution and incarceration are likely to cause grave and disproportionate prejudice to the petitioner in the 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 thereafter passed the order and further the learned First Appellate Court has modified the trial court judgment. She further submits that there is no illegality in the order of learned appellate court.

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

11. In the present case, there is nothing on record to reflect that the petitioner possesses criminal bent of mind or that his conduct pose

any threat to society. Hence, by the broader principles of criminal jurisprudence, no adverse presumption can be drawn against the petitioner.

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*** wherein paragraph Nos. 5, 6, 7, 8, 9, 10, 11, 12, 18, 19 and 20 of the said judgment stipulates 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.

10. *In Dhananjoy Chatterjee Alias Dhana v. State of W.B. [(1994) 2 SCC 220], this Court held: "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."*
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> *[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. 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.

16. 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.

17. In view of the above facts, reasons and analysis and considering that the petitioner has faced the rigor of criminal prosecution for about eight years since the registration of the FIR and as against the substantive sentence of six months and the petitioner has already undergone sentence for more than four months, this Court deems it appropriate to partly allow the petition. While maintaining the judgment of conviction of the learned appellate court, the order of sentence so passed is modified. The sentence awarded under Section 323 and 498-A of Indian Penal Code by the learned First Appellate Court by the judgment dated 13.08.2024 is modified to the period already undergone. The petitioner will be released from custody, if not required in any other case.

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

19. Pending I.A., if any, is also disposed of.

(Sanjay Kumar Dwivedi, J.)

Dated 07.10.2026
Sangam/
A.F.R.