

Patna High Court - Orders

Md. Shahabuddin vs State Of Bihar on 7 January, 2009

IN THE HIGH COURT OF JUDICATURE AT PATNA

CR. APP (SJ) No.1027 of 2008

MD. SHAHABUDDIN

Versus

STATE OF BIHAR

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5 07.01.2009 Heard.

The appellant has prayed for bail who has been convicted under various sections of Arms Act including section 25(1A), 35, 25(1-B), and sentenced to undergo rigorous imprisonment for 10 years.

Counsel for the appellant submits that admittedly the appellant was not in the house wherefrom the arms and ammunitions of different categories/bore are said to have been recovered.

Referring to the findings recorded by the learned Trial Court at para 19, it has been submitted that the Trial Court has also recorded the finding that there was some interpolation in the F.I.R. by inserting in the last but one paragraph. The Trial Court in the said paragraph has observed thus:

"I find that the informant has made interpolations in the F.I.R. by inserting in the last but one paragraph that "brother of the accused namely Shamsuddin disclosed that the room from where the arms and ammunitions were recovered is bed room of the accused."

It has further been submitted that there has not been any notification in terms of the provision of the Act so as to indicate that 9 m.m pistol is prohibited category of arms. Counsel has further criticised the stand of the trial court in taking aid of section 35 of the Arms Act for connecting the appellant.

This Court finds that the appellant was not on bail prior to the conviction. To this, counsel for the appellant submits that he has remained in custody since 7.11.2005.

Having regard to the facts appearing on record, this Court, for the present, is not inclined to admit the appellant on bail. His prayer for bail stands rejected.

The appellant is, however, given liberty to renew his prayer for bail after six months if in the mean while the appeal does not mature for final hearing.

pkj

(Kishore K. Mandal, J)