

**IN THE COURT OF 3<sup>rd</sup> ADDITIONAL DISTRICT & SESSIONS JUDGE &  
& SPECIAL JUDGE (N.D.P.S.),  
CHHOTAUDEPUR, AT CHHOTAUDEPUR**

**SPECIAL N.D.P.S. CASE NO.4/2021**

**ORDER BELOW EXHIBIT-1**

1. Having perusal of the charge-sheet along with all the papers, it appears that the complainant, **Mr. J. P. Mevada**, had lodged the complaint against the **accused Nanubhai Dhanabhai Rathva** for the offences punishable under Sections 8(c), 20(b)(ii)(C) and 29 of the **Narcotic Drugs and Psychotropic Substances Act, 1985** (hereinafter referred to as '**the Act**'). The accused was arrested on 03/09/2021 and was produced before the Special Court for the alleged offences. Thereafter, upon completion of the investigation, the charge-sheet came to be filed before the Special Court, which has jurisdiction to try offences under the NDPS Act. It appears from the complaint and the panchnama that the alleged muddamal, namely **Ganja weighing 450 grams**, was recovered from the alleged possession of the present accused. Now, considering the notification issued by the Central Government, the small quantity prescribed for Ganja is 1 kilogram (1000 grams), and in the present case, the alleged muddamal Ganja weighs only 450 grams, which falls within the category of small quantity.
2. At this juncture, this Court deems it appropriate to reproduce **Section 36A of the NDPS Act**, which provides for the trial of offences by the Special Court. The same reads as under:-

**Section 36-A. Offences triable by Special Courts :**

- (1) **Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),**
  - (a) **all offences under this Act which are punishable with imprisonment for a term of more than three years shall be triable only by the Special Court constituted for the area in which the offence has been committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the Government;**
3. On a bare perusal of Section 36A(1)(a) of the Act, it appears that all offences under the Act which are punishable with imprisonment for a term of more than three years shall be triable by the Special Court constituted for the area

in which the offence has been committed. Meaning thereby only those offences which are punishable with imprisonment for more than three years are triable by this Special Court; otherwise not.

4. Now, advertent to **Section 20 of the Act**, it appears that where the contravention involves a Cannabis plant or Cannabis involving a small quantity, the punishment prescribed is rigorous imprisonment for a term which may extend to one year, or a fine which may extend to Rs.10,000/-, or both. Section 20 of the Act reads as under:-

**Section 20. Punishment for contravention in relation to cannabis plant and cannabis :-**

**Whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder:**

- (a) cultivates any cannabis plant; or**
- (b) produces, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses cannabis, shall be punishable,**
  - [(i) where such contravention relates to clause (a) with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine which may extend to one lakh rupees; and**
  - (ii) where such contravention relates to sub-clause (b),**
    - (A) and involves small quantity, with rigorous imprisonment for a term which may extend to [one year], or with fine which may extend to ten thousand rupees, or with both;**

5. Thus, it appears from Section 20(ii)(A) of the Act that the alleged offence is punishable with rigorous imprisonment for a term which may extend to one year. Therefore, the present case attracts to an offence punishable with imprisonment up to one year only, therefore, this Special Court has **no jurisdiction** to try the said offence.
6. Upon perusal of the entire record and proceedings, it appears that the charge has already been framed and the deposition of the witness has also been recorded by my Learned Predecessor Judge. However, when the alleged offence is punishable with imprisonment up to one year and is triable by the Court of the Magistrate, this Special Court having no jurisdiction to try such

offence. Therefore, this Special Court ought not to proceed further with the trial. If the trial is conducted by this Court despite the lack of jurisdiction, one tier of right to appeal available to the accused would stand extinguished.

7. In the facts and circumstances of the case, and having regard to the small quantity of muddamal Ganja involved, the punishment prescribed for the alleged offence, and the jurisdiction of the Special Court to conduct the trial, this Special Court is of the considered view that it has no jurisdiction to try the present case. Hence, it is required to be transmitted to the Court of the Chief Judicial Magistrate, Chhotaudepur, being the Court having jurisdiction over the offence registered with Chhotaudepur Police Station. Hence, the following order is passed:-

**-:- O R D E R -:-**

1. The present case stands disposed of.
2. The present **NDPS Case No.4 of 2021** is hereby transmitted to the learned **Court of the Chief Judicial Magistrate, Chhotaudepur**, for trial in accordance with law, along with all the case papers and muddamal.
3. The Registry shall transmit all the case papers and muddamal to the learned Chief Judicial Magistrate, Chhotaudepur, forthwith along with the copy of the order.
4. The accused shall remain present before the learned Chief Judicial Magistrate, Chhotaudepur, on **09/07/2026**.

Signed and pronounced in open Court on this 22nd day of June, 2026.

CHHOTAUDEPUR  
DATE : 22/06/2026.

**(M.L.SHAIKH)**  
3<sup>rd</sup> ADDI. DISTRICT & SESSIONS JUDGE &  
SPECIAL JUDGE (N.D.P.S.),  
CHHOTAUDEPUR.  
**UI CODE NO.GJ00743**

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