



2026:CGHC:14933

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 139 of 2018**

1 - Tarun Kumar Lasar S/o Dhani Ram Aged About 28 Years R/o Ward No. 11,  
Bhatapara, Janjgir, Police Station & District Janjgir Champa, Chhattisgarh

2 - Bhojram Satnami S/o Motu Satnami Aged About 40 Years R/o Bus Stand,  
Abhanpur, Police Station Abhanpur, District Raipur, Chhattisgarh

**... Appellants****versus**

State of Chhattisgarh Through Station House Officer, Police Station Mainpur,  
District Gariyaband, Chhattisgarh

**... Respondent**

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For Appellants : Ms. Nirupama Bajpai, Advocate

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For State /Respondent : Mr. Raj Kumar Sahu, PL

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**(Hon'ble Shri Justice Arvind Kumar Verma)****Judgment on Board****01/04/2026**

1. This criminal appeal preferred by the appellant under Section 374 (2) of the Code of Criminal Procedure is directed against the impugned judgment dated 17/11/2017 passed by the Special Judge, Raipur, District



Raipur, C.G. in Special Criminal Case under the NDPS Act No.307/2016 whereby the appellants have been convicted and sentenced as under:-

Conviction	Sentence
Under Section 20 (ii) (B) NDPS Act, 1985	R.I. for 03 Years and fine of Rs.20,000/- in default of payment of fine to undergo additional R.I. for 2 Months.

2. The case of the prosecution in brief is that on 18 October 2016, Inspector C.R. Thakur of Mainpur Police Station received information from an informant that a Royal Bus Service bus numbered CG-04E-3186 was coming from Devbhog towards Mainpur. Two men were carrying marijuana illegally in a backpack, one of whom was lame in his right hand and the other was dark-skinned with short hair. The investigating officer summoned witnesses and presented the informant's information before them. A panchnama was prepared stating that the accused were not seeking a search warrant due to the possibility of misappropriation of marijuana. A copy of the panchnama, along with the informant's report, was sent to the Sub-Divisional Police Officer, Mainpur.
3. Upon arriving at the scene of the incident at the bus stand in Mainpur, the investigating officer encountered the accused, Tarun Kumar Lasar and Bhojram, and issued them a notice requesting a search by a magistrate, a gazetted officer, or by the investigating officer. The accused consented to the search. The investigating officer allowed the accused to search themselves, the police staff, and the witnesses, but found nothing. Upon searching the accused, they were found carrying a



backpack containing two packets of marijuana, which each claimed to be one packet each, and were recovered. The witnesses identified the marijuana recovered from the accused.

4. Mohammad Hanif Memon was called with a notice and the electronic weighing scale brought by him was verified and found to be correct. Hanif Memon weighed the marijuana found with the accused, including 5 kg of marijuana in Tarun's packet and 4 kg 600 grams of marijuana in Bhojram's packet, totaling 9 kg 600 grams. The marijuana packets were opened and mixed. The marijuana was sealed, and a seal panchnama was prepared. 9 kg 600 grams of marijuana, 100-gram samples of marijuana, and a Mycromax mobile phone were seized from the accused. During a search of Tarun's clothes, a bus ticket was found and seized. The accused were issued a notice to produce documents for the marijuana, but they stated that they did not have any. The accused were informed of the reasons for their arrest and were arrested. A site map of the scene was prepared.
5. After the investigation, the investigating officer returned to the police station and deposited the seized property in the police station's treasury. A First Information Report was filed. Witness statements were recorded. A detailed report of the proceedings was sent to the Sub-Divisional Police Officer, Mainpur. A Patwari was asked to prepare a map of the scene. A chemical test was conducted on the seized sample, which was found to be marijuana. The final report was submitted to this court by the investigating officer on December 16, 2016.



6. When charges were framed against the accused under Section 20 (ii) (B) of the NDPS Act, they denied any crime. During the trial under Section 313 of the Code of Criminal Procedure, the accused pleaded innocence and claimed to have been falsely implicated.
7. Learned trial Court after examining the material and evidence available convicted the accused persons. Hence this appeal.
8. Learned counsel appearing for the appellants submits that she is not pressing this appeal on merits and confining the arguments to the quantum of sentence only. She would next contend that the sentence awarded to the appellants is R.I. for 03 Years and the appellants were in jail since 18/10/2016 to 29/01/2018 i.e. approx 01 Year, 03 Months and 10 Days thereafter they were granted bail by this Court and presently also they are on bail. She would next contend that since the incident is of the year 2016 and more than 09 years have elapsed, therefore, it is prayed that the sentence awarded to appellants be reduced to the period already undergone by them.
9. *Per contra*, learned State counsel would submit that the judgment of the trial Court is well merited which do not call for any interference.
10. I have heard learned counsel for the parties and perused the evidence.
11. In the present case, the prosecution case rests on prior information received by the investigating officer regarding transportation of contraband. The evidence on record reflects that such information was reduced into writing and appropriate intimation was sent to the superior officer. Thus, there is substantial compliance with the provisions of



Section 42 of the NDPS Act. Even otherwise, the recovery having been effected at a public place i.e., bus stand, the rigours of Section 42 stand diluted and the case would be governed by Section 43 of the NDPS Act.

12. So far as compliance of Section 50 of the NDPS Act is concerned, the record demonstrates that the appellants were duly apprised of their right to be searched before a Gazetted Officer or a Magistrate. The appellants, upon being so informed, consented to be searched by the police party itself. Moreover, in the present case, the recovery has been effected from a bag carried by the appellants and not from their personal search. It is well settled that Section 50 is applicable only in case of personal search and not to search of bags or articles carried by the accused. Hence, no violation of Section 50 is made out.
13. Further, the seizure proceedings were conducted in presence of independent witnesses and proper seizure memo was prepared on the spot. The contraband was duly weighed, samples were drawn, sealed and sent for chemical examination. The FSL report confirms that the seized substance was ganja. The link evidence regarding safe custody and transmission of samples also stands duly established. There is no material on record to suggest any tampering with the seized articles.
14. The provisions of Section 57 of the NDPS Act, which require reporting of arrest and seizure to superior officers, have also been substantially complied with. It is settled law that such compliance is directory in nature and not mandatory, and in the present case no prejudice is shown to have been caused to the appellants. Thus, on an overall consideration,



this Court finds that there has been substantial compliance of the mandatory provisions of the NDPS Act and no procedural lapse has been demonstrated which may vitiate the prosecution case.

15. Upon appreciation of the entire evidence available on record, this Court finds that the prosecution has been able to establish beyond reasonable doubt that the appellants were found in conscious possession of contraband (ganja) weighing 9 kg 600 grams. The seizure has been duly proved by the testimony of the prosecution witnesses, including the seizing officer, and is further corroborated by the documentary evidence such as seizure memo, weighing panchnama and FSL report confirming the seized substance to be ganja.
16. The evidence of the prosecution witnesses remains consistent and trustworthy on material particulars. Minor discrepancies, if any, do not go to the root of the matter so as to discredit the entire prosecution case. The procedural requirements under the NDPS Act, as applicable to the facts of the present case, have been substantially complied with. The defence has not been able to bring on record any material contradiction or infirmity which would create a reasonable doubt in the prosecution case.
17. It is also noteworthy that the quantity of contraband recovered from the appellants falls within the intermediate quantity. The conscious possession of the appellants stands duly proved and the statutory presumption under the NDPS Act remains unrebutted. In view of the aforesaid analysis, this Court is of the considered opinion that the



learned trial Court has rightly appreciated the evidence and has not committed any illegality or perversity in convicting the appellants for the offence punishable under Section 20(ii)(B) of the NDPS Act. Accordingly, the conviction of the appellants is hereby affirmed.

18. So far as the question of sentence is concerned, it is not in dispute that the appellants were taken into custody on 18.10.2016 and remained in judicial custody from 19.10.2016 to 17.11.2017. Thus, they have undergone more than one year of incarceration. The maximum sentence imposed upon them is rigorous imprisonment for three years. Considering that the quantity involved is of intermediate nature, and further taking into account that the appellants have faced the agony of criminal proceedings since the year 2016, and have already undergone a substantial period of sentence, this Court is of the view that the ends of justice would be adequately met if the substantive sentence of imprisonment is reduced to the period already undergone by them.
19. Accordingly, while maintaining the conviction of the appellants under Section 20(ii)(B) of the NDPS Act, the sentence of imprisonment awarded to them is reduced to the period already undergone. However, the fine of Rs.20,000/- each, as imposed by the trial Court, is maintained. In case the fine amount has already been deposited, no further order is required; otherwise, the same shall be deposited within the stipulated time.
20. Appellants are on bail. Their bail bonds shall remain operative for a period of 06 months in view of Section 437A of CrPC (now Section 481 of Bhartiya Nagrik Suraksha Sanhita, 2023).



21. The lower court record along with a copy of this judgment be sent back immediately to the trial court concerned for compliance and necessary action.

**SD/-**

(Arvind Kumar Verma)  
**JUDGE**

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