



2026:CGHC:8939



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1325 of 2016

Sunil Choudhary S/o Suresh Choudhary, Aged About 19 Years R/o Village Mahrajpur, Police Station Sahebganj, District Rajmahal, Jharkhand., Jharkhand

... Appellant

versus

State Of Chhattisgarh Through The Station House Officer, Police Station G.R.P. Thana, Durg, District Durg, Chhattisgarh., Chhattisgarh

... Respondent(s)

For Appellant : None

For Respondent(s) : Mr. Rishi Raj Pithawa, Dy. G.A.

Hon'ble Shri Justice Arvind Kumar Verma

Judgment on Board

19/02/2026

1. This criminal appeal has been filed under Section 374 (2) of Cr.P.C., 1973 by the appellants against the judgment of conviction and order of sentence dated 26.09.2016 passed by the learned Special Judge (N.D.P.S. Act), Durg (C.G.), in NDPS Case No.



12/2015, whereby the appellant has been convicted and sentenced as follows:-

Convicted	Sentenced to
U/s 20(b)(ii)(B) of N.D.P.S. Act, 1985	R.I. for 8 years with fine of Rs. 25,000/-, in default of payment of fine, additional R.I. for 6 months.

2. Today when the matter is called out for hearing, no one appeared on behalf of the appellant. I, therefore, requested for assistance from a counsel of the High Court legal aid services committee, Ms. Sameeksha Gupta, Advocate has been nominated to assist the Court. I have gone through the judgment under appeal and the depositions of witnesses and exhibits assisted both by Advocate through the High Court Legal Services Committee and Learned State Counsel. In view of **(2014) SCC 222 (Surya Baksh Singh Vs. State of Uttar Pradesh)**, I do not consider it necessary to adjourn this case and issue fresh notice to the Appellant as her interest has been duly taken care of by nominating another counsel from the High Court Legal Services Committee.
3. The prosecution case, in brief, is that on 19.07.2015 at about 8:20 a.m., A.S.I. Daya Kure, In-charge of GRP Outpost, Durg, received secret information that a person was coming to Durg by Train No. 18425 Up Express carrying illegal contraband (ganja) in a black backpack. The information was recorded in the daily diary, and independent witnesses were summoned. Necessary notices were served and panchnamas were prepared. After informing the supe-



rior officers and completing preliminary formalities, the police party proceeded to Platform No. 3 of Durg Railway Station. The suspect was located near the station area as per the informer's description. He was served notice under Section 50 of the NDPS Act and consented to be searched by ASI Daya Kure. On search of his black backpack, two packets containing ganja were recovered. The seizure was recorded through a seizure panchnama. Upon weighing, one packet was found to contain 4 kg 800 g and the other 4 kg 700 g, totaling 9 kg 500 g of ganja. Samples of 50 grams each were drawn from the seized contraband, sealed on the spot with the seal "GRP Durg C.G.", and the remaining bulk was also sealed. A seizure memo and spot map were prepared. The accused was arrested, and intimation of arrest was sent to his relatives through the Superintendent of Police, Jharkhand. The seized articles and sample packets were deposited in the malkhana, with proper entries made in the register. On 21.07.2015, the sealed sample packets were sent to the State Forensic Science Laboratory, Raipur, through a constable. Receipt was obtained, and relevant entries were recorded. After examination, the sample packets were returned and re-deposited in the malkhana. During investigation, statements of witnesses were recorded. Information regarding the accused Sunil Chaudhary's criminal antecedents was sought from Police Station Sahibganj, District Rajmahal, Jharkhand. After completion of investigation, the charge-sheet was filed before the Court. On 31.08.2016, dur-



ing evidence, the seized ganja and two sample packets were produced before the Court. The sample packets were marked as Exhibits P-47 and P-48, and the remaining ganja in the black backpack was marked as Exhibit P-49.

4. The learned Special Judge (NDPS) Durg (C.G.), after appreciating oral and documentary evidence available on record vide judgment dated 26.09.2016, convicted the appellant for the offence punishable under Section 20(b)(ii)(B) of the N.D.P.S. and sentenced them as mentioned in opening paragraph of this order.
5. The appellant no. 1 was in jail from 19.07.2015 to 22.07.2019 (4 years and 3 days).
6. Learned counsel for the appellant would submit that the appellants are innocent person and have been falsely implicated in the aforesaid case and the mandatory provisions have not been followed by the prosecution. The judgment of the Trial Court is bad in law as well as on facts. The learned Trial Court ought not to have convicted and sentenced the appellants and ought to have given the benefit of doubt since the evidence submitted by the prosecution is very shaky and unbelievable. The Trial Court failed to appreciate the evidence and documents available on record.
7. Learned counsel for the appellants submits that he does not want to press this appeal on merits and confine his arguments to the sentence part thereof only. Further, he submits that the appellant has already undergone half of the sentence awarded by the trial Court. There is also no previous criminal antecedents against the



appellant. Therefore, the jail sentence awarded to the appellant may be reduced to the period already undergone by him.

8. Learned Panel Lawyer appearing for the respondent/State, submits that the Trial Court has rightly convicted and sentenced the appellants, in which no interference is called for.
9. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
10. From perusal of the records, on 19.07.2015 at about 8:20 a.m., A.S.I. Daya Kure, In-charge of GRP Outpost, Durg, received secret information that a person was coming to Durg by Train No. 18425 Up Express carrying illegal contraband (ganja) in a black backpack. The information was recorded in the daily diary, and independent witnesses were summoned. Necessary notices were served and panchnamas were prepared. After informing the superior officers and completing preliminary formalities, the police party proceeded to Platform No. 3 of Durg Railway Station. The suspect was located near the station area as per the informer's description. He was served notice under Section 50 of the NDPS Act and consented to be searched by ASI Daya Kure. On search of his black backpack, two packets containing ganja were recovered. The seizure was recorded through a seizure panchnama. Upon weighment, one packet was found to contain 4 kg 800 g and the other 4 kg 700 g, totaling 9 kg 500 g of ganja. Samples of 50 grams each were drawn from the seized contraband, sealed on



the spot with the seal “GRP Durg C.G.”, and the remaining bulk was also sealed. A seizure memo and spot map were prepared. The accused was arrested, and intimation of arrest was sent to his relatives through the Superintendent of Police, Jharkhand. The seized articles and sample packets were deposited in the malkhana, with proper entries made in the register. On 21.07.2015, the sealed sample packets were sent to the State Forensic Science Laboratory, Raipur, through a constable. Receipt was obtained, and relevant entries were recorded. After examination, the sample packets were returned and re-deposited in the malkhana. During investigation, statements of witnesses were recorded. Information regarding the accused Sunil Chaudhary’s criminal antecedents was sought from Police Station Sahibganj, District Rajmahal, Jharkhand. After completion of investigation, the charge-sheet was filed before the Court. On 31.08.2016, during evidence, the seized ganja and two sample packets were produced before the Court. The sample packets were marked as Exhibits P-47 and P-48, and the remaining ganja in the black backpack was marked as Exhibit P-49. After following the due processes, chargesheet was submitted before the learned Special Judge who convicted the appellant under Section 20(b)(ii)(B) of the NDPS Act, 1985. Considering the material available on record and the evidence adduced by the prosecution, I am of the view that the Trial Court did not commit any illegality or infirmity in the



findings recorded by Trial Court as regards conviction of the appellants under Section 20(b)(ii)(B) of the N.D.P.S.

11. Therefore, the essence of the above discussion is that the Investigating Officer in this case appears to have followed all the mandatory and directive provisions of the NDPS Act. There is no concrete reason to disbelieve the evidence of the Investigating Officer and other witnesses and the action taken by them. The accused did not produce any valid license or document in relation to the narcotic substance recovered from his possession. Therefore, it is proved that the appellant possessed 9 kg 500 gm of ganja in violation of the provisions of the NDPS Act.
12. As regards the sentence awarded to the appellant. Considering the fact that the appellant is facing criminal trial since 2015, considering the age of the appellant at present and further considering the quantity of contraband seized from the possession of appellant i.e. 9 Kg 500 gm contraband(ganja), which is intermediate quantity and there is no previous criminal antecedents and further the appellant has remained in jail for 4 years and 3 days, therefore, this Court is of the opinion that in the interest of justice, the sentence imposed upon the appellant is reduced to the period already undergone by the appellant under Section 20(b)(ii)(B). However, fine imposed by trial Court is maintained.
13. With the aforesaid observations, the criminal appeal is **allowed in part**. The appellant is held guilty of committing offence under Section 20(b)(ii)(B) of NDPS Act and is convicted for the said offence.



However, the sentence is reduced to the period already undergone by him. The appellant is reported to be on bail. Surety and personal bond earlier furnished at the time of suspension of sentence shall remain operative for a period of six months in view of the provisions of Section 437-A Cr.P.C.

14. Let a copy of this order and the original records be transmitted to the trial court concerned forthwith for necessary information and compliance.

Sd/-

(Arvind Kumar Verma)

Judge

Madhurima