



2026:CGHC:8415



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 163 of 2026

Sudheer Chouhan S/o Ramu Chouhan Aged About 24 Years R/o Village Banhar, Police Station Sarangarh, District Raigarh (Now District Sarangarh-Bilaigarh C.G.)

... Appellant

versus

State Of Chhattisgarh Through The Police Station Sarangarh, District Raigarh (Now District Sarangarh-Bilaigarh C.G.)

... Respondent

For Appellant	: Mr. Vikram Pratap, Advocate
For Respondent/State	: Mr. Akash Agrawal, Panel Lawyer

Hon'ble Shri Justice Sanjay Kumar Jaiswal

Judgment on Board

17.02.2026

1. This appeal has been preferred by the appellant under Section 415 (2) of BNSS, 2023 challenging the impugned judgment of conviction and order of sentence dated 17.12.2025 passed by learned Special Judge (under NDPS Act 1985), District Raigarh (C.G.) in Special Criminal Case under the NDPS Act No.21/2020, whereby the appellant has been convicted for offence under



Section 20(b)(ii)(B) of the NDPS Act, 1985 and sentenced to undergo rigorous imprisonment for 6 months with fine of Rs.2,000/-, in default of payment of fine, to undergo additional R.I. for 1 month.

2. The case of prosecution, in short, is that, on 19.07.2020, on the basis of information received from an informant, police officials of Police Station Sarangarh, Raigarh after completing necessary formalities conducted raid and seized total 2 Kg. of contraband Ganja from the appellant and co-accused Ajeet Chauhan which was kept in a white carry bag. Thereafter, a case was registered against the appellant, and the seized substance was sent to the Forensic Science Laboratory for testing. As per the test report (Ex.P-37), the seized substance was confirmed to be Ganja. After completion of the investigation, charge sheet was filed against the appellant.
3. During the course of trial, in order to bring home the offence, prosecution examined as many as 13 witnesses and exhibited 37 documents in support of its case. The statement of the appellant / accused was recorded under Section 313 of the CrPC in which he denied the circumstances appearing against him in the evidence brought on record by the prosecution, pleaded innocence and false implication.
4. Learned trial Court, after appreciation of oral and documentary evidence on record, convicted and sentenced the appellant as mentioned in the opening paragraph of this judgment, against which the present appeal has been preferred by the appellant questioning the legality, validity and correctness of the impugned judgment.
5. Learned counsel for the appellant submits that he does not want to press this appeal on merits and confines his argument only on sentence part. He submits that the appellant has no criminal antecedent, he was studied upto 5th standard, now he is aged



about 30 years and having family responsibilities and he already remained in jail for about 107 days. The incident took place in the year 2020 and since then the appellant is facing the *lis*. He has already deposited the fine amount as imposed by the Trial Court. Hence, by considering all these facts, the sentence of the appellant may be reduced to the period already undergone by him in the interest of justice.

6. Per contra, learned counsel appearing for the State, supported the impugned judgment and opposed the arguments advanced on behalf of the Appellant.
7. Heard learned counsel for the parties and perused the record including the impugned judgment.
8. Having gone through the material available on record and the evidence of Shashidev Bhoi (PW-9), seizure memo (Ex.P-16) and the report of State Forensic Science Laboratory (Ex.P-37), establish the involvement of the Appellant in the crime in question. This Court does not find any illegality or infirmity in the finding recorded by the Trial Court as regards the conviction of the appellant for offence punishable under Section 20(b)(ii)(B) of the NDPS Act which is based on evidence available on record and it is hereby affirmed.
9. As regards the sentence, in the matter of **Mohammad Giasuddin v. State of Andhra Pradesh** reported in **(1977) 3 SCC 287**, Hon'ble Supreme Court has observed that if you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries and held in para-9 as follows:

"9. Western jurists and 'sociologists, from their own angle have struck a like note. Sir Samuel Romilly, critical of the brutal penalties in the then Britain, said in 1817:

"The laws of England are written in blood". Alfieri has



suggested 'society prepares the crime, the criminal commits it'. George Nicodotis, Director of Criminological Research Centre, Athens, Greece, maintains that 'Crime is the result of the lack of the right kind of education.' It is thus plain that crime is a pathological aberration, that the criminal can ordinarily be redeemed, that the State has to rehabilitate rather than avenge. The sub-culture that leads to anti-social behaviour has to be countered not by undue cruelty but by re-culturation. Therefore, the focus of interest in penology is the individual, and goal is salvaging him for society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today views sentencing as a process of reshaping a person who has deteriorated into criminality and the modern community has a primary stake in the rehabilitation of the offender as a means of social defense. We, therefore consider a therapeutic, rather than an in 'terrorem' outlook, should prevail in our criminal courts, since brutal incarceration of the person merely produces laceration of his mind. In the words of George Bernard Shaw: 'If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries'. We may permit ourselves the liberty to quote from Judge Sir Geoffrey Streatfield: "If you are going to have anything to do with the criminal Courts, you should see for yourself the conditions under which prisoners serve their sentences."

10. In the light of the decision of the Hon'ble Supreme Court in the case of **Mohammad Giasuddin** (supra) and keeping in view the fact that the appellant is facing the *lis* since 2020, he has no criminal antecedent, as per arrest memo, he had studied upto 5th class and he is having family responsibilities. He already remained in jail for about 107 days and since 2020, he is facing the *lis*. Considering all these factors, the ends of justice would be served if the appellant's sentence is reduced to the period already undergone by him.
11. Accordingly, the conviction of the appellant for offence under Section 20(b)(ii)(B) of the NDPS Act is maintained and the sentence of RI for 6 months is reduced to the period already



undergone by him i.e. 107 days. However, the fine amount and its default stipulation imposed by the trial Court shall remain intact.

12. Consequently, the appeal is **partly allowed** to the extent indicated hereinabove.
13. The appellant is in jail. He be released forthwith if not required to be detained in any other case/s.
14. Let a certified copy of this judgment along with the original record be transmitted forthwith to the trial Court concerned. A copy of this judgment be also sent to the concerned Jail Superintendent where the Appellant is serving his jail sentence, for information and necessary compliance.

Sd/-
(Sanjay Kumar Jaiswal)
Judge

Shubham