



2026:CGHC:13607

1



2026:CGHC:13607

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1230 of 2017

Girdhari Yadav S/o Videshi Yadav, Aged About 27 Years Occupation
Labourer, R/o Village Tora, P.S. Sariya, District Raigarh Chhattisgarh.

--- Appellant

versus

State Of Chhattisgarh Through Station House Officer Police Station
Sariya, District. Raigarh Chhattisgarh

--- Respondent

WITH

CRA No. 1359 of 2017

Lalit Nishad S/o Hadu Nishad Aged about 3 years, Occupation
Agriculturist R/o village Korra, PS Sariya, District Raigarh (C.G.).

--- Appellant

Versus

State Of Chhattisgarh through the Police Station Sariya, District
Raigarh (CG)

---- Respondent

For Appellants : Mr. Raghvendra Pradhan, Advocate

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

**Hon'ble Shri Justice Arvind Kumar Verma****Judgment on Board****23/03/2026**

1. Both the criminal appeals have been preferred by the appellants under Section 374(2) of CrPC being aggrieved with the judgment of conviction and order of sentence dated 29.07.2017 passed in Special Case No. NDPS Act/206100000/15/2016 by the Special Judge (NDPS Act), District Raigarh (C.G.), whereby the trial Court has convicted the appellants as under :

Conviction	Sentence	In Default
Under Section 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985	R.I. for 06-06 years and fine amount of Rs.5,000-5,000/-	In default of payment of fine amount further R.I. for 06-06 months

2. According to the case of prosecution is that on 11-06-2016, while on village patrol, Inspector Gopal Dhurve along with his staff, on receiving information from an informant in village Korra, stopped Lalit Nishad and Girdhari Yadav coming from village Tora on a Pulsar motorcycle number CG 13 UJ 4947. The informant's information panchnama was prepared and sent to the SDOP, Sarangarh. Notices for the witnesses' appearance



were issued through Constable Shyam Pradhan, Ex. P.2 and 25. The accused were served notice under Section 50 of the NDPS Act as per Ex. P-5. The accused consented to a search as per Ex. P-7 and 8. The accused subjected themselves to a search, their personnel, and their vehicle were searched, and no incriminating material was recovered. When the accused were searched in the presence of witnesses, narcotics were found in their possession in a sack, as per the search panchnama Ex. P-12. 11 packets of marijuana were recovered in a plastic polythene bag inside the sack, as per the recovery panchnama Ex. P-13. Upon identification, as per Ex. P-14, it was found to be marijuana. The recovered marijuana was mixed as per Ex. P- 15 and weighed.

3. The police had registered the case as Crime No. 89/2016 for the offence punishable under Section 20(b) of NDPS Act against the Appellant and accordingly they were arrest.
4. After completion of investigation, the charge sheet was submitted before the Court below against the Appellants and ultimately the case was committed to the learned Special Judge for trial.
5. The prosecution examined as many as 10 witnesses in which the appellant pleaded not guilty. The statement of Appellants



were recorded under Section 313 of Cr.P.C., where the denied all the allegations and took a plea that they have been falsely implicated and further the Appellant examined defence witnesses.

6. The learned trial court after completing the trial, found the Appellants guilty of offence under Section 20(b)(ii)(B) of N.D.P.S. Act and convicted and sentenced them as mentioned above. Hence, appeals.
7. Learned counsel appearing on behalf of the appellants contended that he does not wants to press this appeal on merits and confines his argument to the sentence part only. He further submits that the incident is of the year 2016 and they are facing */is* since 2016. Appellants have undergone about 02 years and 2 ½ months, therefore, it is prayed that the jail sentence awarded to the appellants may be reduced to the period already undergone by them.
8. Per contra, learned counsel for the State/respondent opposes the argument raised by counsel for the appellants, supported the impugned judgment and submits that sentence awarded by the trial Court is just and proper and requires no interference.
9. I have heard learned counsel appearing on behalf of the parties



and perused the material available on record with utmost circumspection.

10. On perusal of the records, I have found that on 11-06-2016, while on village patrol, Inspector Gopal Dhurve along with his staff, on receiving information from an informant in village Korra, stopped Lalit Nishad and Girdhari Yadav coming from village Tora on a Pulsar motorcycle number CG 13 UJ 4947. The informant's information panchnama was prepared and sent to the SDOP, Sarangarh. Notices for the witnesses' appearance were issued through Constable Shyam Pradhan, Ex. P.2 and 25. The accused were served notice under Section 50 of the NDPS Act as per Ex. P-5. The accused consented to a search as per Ex. P-7 and 8. The accused subjected themselves to a search, their personnel, and their vehicle were searched, and no incriminating material was recovered. When the accused were searched in the presence of witnesses, narcotics were found in their possession in a sack, as per the search panchnama Ex. P-12. 11 packets of marijuana were recovered in a plastic polythene bag inside the sack, as per the recovery panchnama Ex. P-13. Upon identification, as per Ex. P-14, it was found to be marijuana. The recovered marijuana was mixed as per Ex. P- 15 and weighed. After due procedure, the appellants were arrested, and offence was registered against the accused and after due



investigation charge sheet was filed against the accused/appellants.

11. Under Section 42 of the NDPS Act, 1985 prescribed for power of entry, search, seizure and arrest without warrant or authorization.

12. The next issue that falls for our consideration is with respect to the compliance of Section 42 of the NDPS Act 1985. For the said purposes, an analysis of the bare text of Section 42 of the NDPS Act 1985 is undertaken hereinafter. Section 42 of the NDPS Act 1985 is worded as follows:

“42. Power of entry, search, seizure and arrest without warrant or authorisation.—

(I) Any such officer (being an officer superior in rank to a peon, sepoy or constable) of the departments of central excise, narcotics, customs, revenue intelligence or any other department of the Central Government including para-military forces or armed forces as is empowered in this behalf by general or special order by the Central Government, or any such officer (being an officer superior in rank to a peon, sepoy or constable) of the revenue, drugs control, excise, police or any other department of a State Government as is empowered



in this behalf by general or special order of the State Government, if he has reason to believe from personal knowledge or information given by any person and taken down in writing that any narcotic drug, or psychotropic substance, or controlled substance in respect of which an offence punishable under this Act has been committed or any document or other article which may furnish evidence of the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act is kept or concealed in any building, conveyance or enclosed place, may between sunrise and sunset,—

(a)enter into and search any such building, conveyance or place;

(b)in case of resistance, break open any door and remove any obstacle to such entry;

(c)seize such drug or substance and all materials used in the manufacture thereof and any other article and any animal or conveyance which he has reason to believe to be liable to confiscation under this Act and any document or other article which he has reason to believe may furnish evidence of the



commission of any offence punishable under this Act or furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act; and

(d) detain and search, and, if he thinks proper, arrest any person whom he has reason to believe to have committed any offence punishable under this Act:

[Provided that in respect of holder of a licence for manufacture of manufactured drugs or psychotropic substances or controlled substances granted under this Act or any rule or order made thereunder, such power shall be exercised by an officer not below the rank of sub-inspector:

Provided further that] if such officer has reason to believe that a search warrant or authorisation cannot be obtained without affording opportunity for the concealment of evidence or facility for the escape of an offender, he may enter and search such building, conveyance or enclosed place at any time between sunset and sunrise after recording the grounds of his belief.

(2) Where an officer takes down any information in writing under sub-section (1) or records grounds for his belief under the proviso thereto, he shall within seventy-two hours send a



copy thereof to his immediate official superior.”

13. On perusal of the record, it transpires that the Investigating Officer has complied with provision of Sections 42, 52-A (3) & 55 of the NDPS Act.
14. The Report of Regional Forensic Science Laboratory, which shows that the samples of seized articles have been found positive. Therefore, in considered opinion of this Court, the trial Court has rightly convicted the appellants for the offence punishable under Section 20(b)(ii)(B) of the NDPS Act. I do not find any illegality and infirmity in the findings recorded by the trial Court with regard to the conviction part.
15. Considering the above facts and circumstances of the case, particularly, considering the fact that the contraband Ganja seized from the possession of the appellant is 10 Kg 200 gram in total; they have already undergone about 02 years and 2 ½ months out of period of 06 years sentence imposed upon them by the trial Court, I am of the considered opinion that the ends of justice would be met if, while upholding the conviction imposed upon the appellants, the jail sentence awarded to them is reduced to the period already undergone by them. The fine amount imposed by the learned trial Court shall remain intact. If the fine amount is not deposited by the appellants,



they shall further undergo as has been ordered by the learned trial Court. Ordered accordingly.

16. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Kumar Verma)
Judge

Vasant