



2026:CGHC:21182



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 275 of 2026

Tarun Bajaj S/o Naresh Bajaj Aged About 29 Years R/o Walfort Garden H. No. 47, Police Station D.D. Nagar Dist- Raipur (C.G.)

... Appellant

versus

State Of Chhattisgarh Through- Police Station D.D. Nagar District- Raipur (C.G.)

... Respondent

For Appellant : Shri Niraj Baghel, Advocate.

For Respondent/State : Shri Aman Tamrakar, Panel Lawyer.

(HON'BLE SHRI JUSTICE RADHAKISHAN AGRAWAL)

Judgment on Board

06/05/2026

1. This criminal appeal arises out of the judgment of conviction and order of sentence dated 06.01.2026 passed by the learned Special Judge (NDPS Act), Raipur, District Raipur (C.G.), in Special Criminal Case No.86/2025, whereby the appellant has been convicted for the offence under Section 21(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the Act of 1985') and sentenced to undergo rigorous imprisonment for five years along with a fine of Rs. 50,000/-, in default of payment of fine, to further undergo additional rigorous imprisonment for six months for the said offence.
2. Case of the prosecution, in brief, is that on 05.04.2025, PW-8 Mahendra Mishram Investigating Officer, received secret information that one person was in possession of illegal intoxicating substances, namely, Diacetylmorphine (*Heroin*), and was involved in illegal sale of



it. Acting upon the said information, the Investigating Officer (PW-8), after complying with the required legal formalities, proceeded to the spot along with independent witnesses and the police party. Upon reaching the spot, the appellant was found present near the cremation ground next to the third gender, Sarona, Raipur. After following due procedure, a search was conducted, during which, contraband substance, Diacetylmorphine (*Heroin*) was recovered from his possession. The recovered substance was weighing 8 grams. The seized article was duly weighed, sealed, and seized in accordance with law in the presence of witnesses. Thereafter, upon completion of necessary formalities, an FIR (Ex.P-48) was registered against the present appellant.

3. After completion of investigation, charge-sheet was filed before the learned Special Judge (NDPS Act), Raipur (C.G.). The accused abjured the charges and pleaded not guilty.
4. Learned trial Court, after appreciation of oral and documentary evidence, convicted and sentenced the appellant as mentioned in para 1 of this judgment. Hence, this appeal.
5. Learned counsel for the appellant submits that he does not want to challenge the conviction of the appellant and confines his arguments only to the sentence part only, which, according to him, is on the higher side. He submits that as per provisions of NDPS, small quantity is 5 grams whereas 8 grams Diacetylmorphine (*Heroin*) was seized from the appellant, which is just more than the small quantity. It is further submitted that the appellant is father of 6 months girl child. It is further submitted that the appellant remained in custody from 05.04.2025 to 14.07.2025 and from 06.01.2026 to 06.05.2026 i.e., for a total period of



7 months and 8 days, he has no criminal antecedents of similar nature, is a young man aged about 29 years and that, fine amount has already been deposited. Therefore, considering the present condition of the appellant, it is prayed that the sentence of imprisonment awarded to the appellant be reduced to the period already undergone by him.

6. On the contrary, learned counsel for the State supports the impugned judgment.
7. I have heard learned counsel appearing on behalf of the parties and perused the record.
8. Considering the statements of PW-9 Mahendra Mishra, Investigating Officer; PW-1 Bhupendra Kumar Mishra (Constable); PW-3 Parmeshwar Karsh (Constable); PW-4 Shravan Kunjam (Constable); and PW-5 Nilesh Pathak (Head Constable/Reader), along with the other evidence available on record, this Court is of the opinion that the finding of conviction recorded by the learned trial Court is based on proper appreciation of evidence and does not suffer from any infirmity. Accordingly, the same is hereby affirmed.
9. As regards the sentence part, 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. Thus, considering the facts and circumstances of the case in the light of the aforesaid decision of the Hon'ble Supreme Court in *Mohammad Giasuddin (supra)*, and further taking into account the submissions made by the learned counsel for the appellant as well as the fact that he has already undergone a jail sentence of 7 months and 8 days and has no criminal antecedents of similar nature, this Court is of the view that the ends of justice would be met if, while upholding the conviction, the sentence of imprisonment awarded to the appellant is reduced to the period already undergone by him. However, the fine amount along with the default stipulation, as imposed by the trial Court, is affirmed.
11. Consequently, the criminal appeal is partly allowed. The conviction of the appellant under the aforementioned Section is affirmed and he is sentenced to the period already undergone by him.
12. It is reported that the appellant is in jail. He shall be set at liberty forthwith, if not required in any other case.



13. Let a certified copy of this judgment along with the original record, be transmitted forthwith to the concerned trial Court for information and necessary compliance. A copy of this judgment be also sent to the concerned Superintendent of Jail where the appellant is undergoing jail sentence.

Sd/-
(Radhakishan Agrawal)
JUDGE

Anjani