



2026:CGHC:9808

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 209 of 2022**

1 - Ghanshyam Agrawal S/o Late Maniklal Aged About 49 Years
R/o Village- Ranveerpur, Police Station-Sahaspur Lohara,
District- Kabirdham, Chhattisgarh.

... Appellant**versus**

1 - State Of Chhattisgarh Through- Station House Officer, Excise
Circle Sahaspur Lohara, District- Kabirdham, Chhattisgarh.

... Respondent

For Appellant	:	Mr. Kanhaiya Ram Yadav, Adv. on behalf of Mr. Dharmesh Srivastava, Adv.
For State	:	Mr. Akash Agrawal, P.L.

Hon'ble Shri Justice Sanjay Kumar Jaiswal**Order on Board****25/02/2026**

1. Pursuant to the bailable warrant order of this Court dated 28.01.2026, the appellant is present in person before this Court today. His presence be marked.
2. The present appeal arises out of the impugned judgment of conviction and order of sentence dated 19.01.2022 passed by the learned Special Judge, (N.D.P.S. Act), Kawardha, District-Kabirdham (C.G.), in Special Criminal Case under NDPS Act No. 76/2017 whereby the learned Special Judge has convicted and sentenced the appellant as under :

Conviction	Sentence
U/s 20(b)(ii)(B) of N.D.P.S. Act	R.I. for 2 years with fine of Rs. 20,000/-, and in default of payment of fine amount additional R.I. for 4 months.

3. As per the prosecution's case, on 20.08.2017, Excise Sub-inspector Ranjeet Gupta (PW-7) received secret information regarding the illegal selling of Ganja, then, after due procedure, he along with his staff, went to the spot. The present appellant, seeing the police start running away from the spot, was then caught by the team. On enquiry, the appellant told his name, and on search, the appellant was found to be in possession of 2.800 kg of Ganja, which was kept in a bag. After completion of the entire investigation, charge sheet was filed against the present appellant.
4. So as to hold the accused/appellant guilty, the prosecution has examined as many as 07 witnesses and exhibited 31 documents. The statements of the accused/appellant was also recorded under Section 313 of the Cr.P.C. in which he denied the circumstances appearing against him and pleaded innocence and false implication in the case.
5. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 19.01.2022, learned Special Judge has convicted and sentenced the appellant as mentioned in para-2 of this judgment. Hence, the present appeal.
6. Learned counsel for the appellant submits that he is not pressing the appeal so far as the conviction is concerned and is confining his arguments to the sentence part thereof only. According to him, the incident is said to have taken

place on 20.08.2017, and only 2.800 kg of ganja has been seized from the accused/appellant. The appellant was in jail from 21.08.2017 to 12.12.2017 during trial and from 19.01.2022 to 17.02.2022, i.e. total of 4 months and 15 days. He also submits that the appellant has no criminal antecedents and the fine imposed upon him has been deposited, vide receipt dated 02.03.2022; therefore, in the interest of justice, it would be appropriate if the sentence imposed upon the present appellant may be reduced to the period already undergone by him.

7. Per contra, learned counsel appearing for the State, supporting the impugned judgment, opposed the arguments advanced on behalf of the appellant and submits that, however, the appellant has no criminal antecedents.
8. Heard learned counsel for the parties and perused the material on record including the impugned judgment.
9. Having gone through the material on record and the evidence of the witnesses Sanjay Singh Thakur (PW-6) and Ranjeet Kumar Gupta (PW-7), establishes the involvement of the accused/appellant in the crime in question. Thus, considering the oral and documentary evidence on record the seizure of Ganja from the possession of the accused/appellant which was subsequently found to be Ganja as per FSL report vide Ex. P-30. This Court does not see any illegality in the findings recorded by the trial Court as regards conviction of the appellant under Section 20(b) (ii)(B) of Narcotic Drugs and Psychotropic Substances Act.
10. As regards 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.”

11. In the light of the decision of the Supreme Court in the case of **Mohammad Giasuddin** (supra) and keeping in view the facts that the appellant has already served the jail sentence of total 4 months and 15 days and at present appellant is aged about 58 years, he has no

criminal antecedent, this court is of the opinion that the ends of justice would be served if he is sentenced to the period already undergone by him while keeping the fine amount with default stipulation as imposed by the Trial Court intact.

12. In the result the appeal is **allowed in part**. While maintaining the conviction of the appellant under Section 20(b)(ii)(B) of NDPS Act, his jail sentence is reduced to the period already undergone by him i.e. total 4 months and 15 days instead of R.I. for 2 years. However, the fine imposed upon the appellant by the Trial Court shall remain intact.
13. The appellant is reported to be on bail. He need not to surrender in this case.
14. Let a certified copy of this order along with original record be transmitted forthwith to the trial Court concerned for information and necessary action, if any.

Sd/-
(Sanjay Kumar Jaiswal)
JUDGE

H.L. Sahu