



2026:CGHC:13446

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRA No. 237 of 2020**

- Pawan Kumar S/o Ashok Kumar Aged About 24 Years R/o Balhaira, Post Malpura, P.S. City Kotwali, Malpura, Agra, Uttarpradesh., District : Agra, Uttar Pradesh

... Appellant(s)**versus**

- State Of Chhattisgarh Through Station House Officer, Police Station, G.R.P. Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---Respondent

For Appellant : Mr. C.R. Sahu, Advocate

For Respondent : Mr. Suresh Tandon, P.L.

Hon'ble Shri Justice Arvind Kumar Verma,**Judgment on Board****20.03.2026**

1. This criminal appeal has been filed under Section 374 (2) of Cr.P.C. by the appellant against the judgment of conviction and order of sentence dated 29.01.2020 passed by the learned Special Judge (N.D.P.S. Act) Raipur District Raipur (C.G.) in Special Criminal Case No. 65/2018, whereby the appellant has been convicted and sentenced as follows:-



Convicted under Sections	Sentenced to
20(b)(ii-B) of N.D.P.S. Act, 1985	R.I. for 5 year with fine of Rs. 10,000/- and in default of payment of fine, additional R.I. for 1 year.

2. The prosecution case, in brief, is that on 09.07.2018, Sub-Inspector L.S. Rajput of Police Station G.R.P., Raipur received information from an informant that three young men were sitting under the over-bridge at Platform No. 1 towards Durg side, each carrying bags containing contraband ganja. The said information was recorded in the daily diary vide Rojnamcha Sanha No. 7/18 (Exhibit P-18C). Thereafter, Constable Ketaram Sahu was deputed to summon independent witnesses, who returned along with witnesses Santosh Sahu and Farooq Memon. Notices under Section 160 of the Code of Criminal Procedure (Exhibit P-01C) were served upon them, and they were apprised of the informant's information and requested to assist in its verification and further proceedings. Upon their oral consent, an informant information panchnama (Exhibit P-02C) and a search panchnama without warrant (Exhibit P-03C) were prepared in their presence. Constable No. 377 Suresh Mishra was sent with a dispatch to inform the superior officers, and he proceeded towards the Office of the Superintendent of Police, Railway Police, Raipur. Due to the likelihood of delay in the arrival of senior officers and apprehension that the accused might dispose of the contraband, Assistant Sub-Inspector Gopi Singh Paikra, along with the staff, witnesses, weighing scale, weights, and investigation kit, proceeded from the police station to Platform No. 1, Durg end. Further, the prosecution case is that upon reaching the spot, the Station



House Officer observed that the persons matching the description given by the informant attempted to flee on seeing the police. They were apprehended and, upon interrogation, disclosed their names as Apoorva Haldhar, Avadhesh Verma, and Pawan Kumar. Each of them was found in possession of a backpack/air bag. Further, it is stated that Assistant Sub-Inspector Gopi Singh Paikra, in the presence of the Station House Officer, proceeded against accused Pawan Kumar by serving him a notice under Section 50 of the NDPS Act (Exhibit P-04), informing him of his legal right to have the search conducted before a Magistrate or a Gazetted Officer. The accused consented to have his bag searched by the investigating officer, and a consent memo (Exhibit P-05) was prepared. Prior to conducting the search, the investigating officer offered his own search as well as that of the staff and witnesses to the accused, which yielded no contraband substance. Thereafter, upon searching the backpack of the accused, a large packet was found inside, containing a greenish leafy and flowering substance. On preliminary examination at the spot, the substance was identified as ganja. A seizure and physical verification panchnama (Exhibit P-07) was prepared. The contraband was weighed and homogenized at the spot, and its total weight was found to be 14 kilograms. Out of the same, 50 grams was separated and sealed as sample A-1. A railway journey ticket was also seized from the possession of the accused. The sample packet and the remaining contraband were sealed in the same bag at the spot. Upon returning to the police station, the First Information Report (Exhibit P-17) was registered. The seized contraband and sample were handed over to Head Consta-



ble Chintamani for safe custody, and a certificate in this regard (Exhibit P-16) was issued by the Malkhana Moharrir. The accused was arrested, and information of his arrest was given to his family members. During further investigation, the Station House Officer S.L. Rajput sent the seized sample for chemical examination to the Forensic Science Laboratory, Raipur, along with a forwarding letter (Exhibit P-26) issued by the Superintendent of Police, Railway. The receipt thereof is Exhibit P-12A. The FSL report (Exhibit P-29) confirmed that sample A-1 contained ganja. Upon completion of the entire investigation, the charge-sheet was filed before the competent Court.

3. The learned Special Judge (N.D.P.S. Act) Raipur District Raipur, C.G., after appreciating oral and documentary evidence available on record vide judgment dated 29.01.2020, convicted the appellant for the offence punishable under Section 20(b)(ii-B) of the N.D.P.S. and sentenced him as mentioned in opening paragraph of this order.
4. The appellant was in custody from 09.07.2018 to 28.01.2020 and thereafter he was in jail from 29.01.2020 to 15.10.2020 (total jail period 2 years, 3 months and 6 days).
5. Learned counsel for the appellant would submit that the appellant is innocent persons and has 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.

6. Learned counsel for the appellant further submits that he does not want to press this appeal on merits and confine his arguments to the sentence part thereof only. Further, learned counsel for appellant submits that the appellant at present is aged about 32 years and as he is facing criminal trial since 2018 and the appellant has already undergone more than 2 years, 3 months and 6 days 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. Learned counsel for appellant placed his reliance upon the decisions of the Coordinate Bench of this High Court in the matters of **Ajay Kumar Sarthi V. State of Chhattisgarh** in CRA No. 243 of 2022, **Pritam Patel Vs. State of Chhattisgarh** in CRA No. 903 of 2015 and **Yogendra Singh Markam Vs. State of Chhattisgarh** in CRA No. 1760 of 2022, the Cor-ordinate Bench has reduced the sentence to the period already undergone, and therefore, similar relief may be extended to the appellants herein as well.
7. Learned State Counsel submits that the Trial Court has rightly convicted and sentenced the appellant, in which no interference is called for.
8. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.



9. From perusal of the records, it transpires that on 09.07.2018, Sub-Inspector L.S. Rajput of Police Station G.R.P., Raipur received information from an informant that three young men were sitting under the overbridge at Platform No. 1 towards Durg side, each carrying bags containing contraband ganja. The said information was recorded in the daily diary vide Rojnamcha Sanha No. 7/18 (Exhibit P-18C). Thereafter, Constable Ketaram Sahu was deputed to summon independent witnesses, who returned along with witnesses Santosh Sahu and Farooq Memon. Notices under Section 160 of the Code of Criminal Procedure (Exhibit P-01C) were served upon them, and they were apprised of the informant's information and requested to assist in its verification and further proceedings. Upon their oral consent, an informant information panchnama (Exhibit P-02C) and a search panchnama without warrant (Exhibit P-03C) were prepared in their presence. Constable No. 377 Suresh Mishra was sent with a dispatch to inform the superior officers, and he proceeded towards the Office of the Superintendent of Police, Railway Police, Raipur. Due to the likelihood of delay in the arrival of senior officers and apprehension that the accused might dispose of the contraband, Assistant Sub-Inspector Gopi Singh Paikra, along with the staff, witnesses, weighing scale, weights, and investigation kit, proceeded from the police station to Platform No. 1, Durg end. Further, the prosecution case is that upon reaching the spot, the Station House Officer observed that the persons matching the description given by the informant attempted to flee on seeing the police. They were apprehended and, upon interrogation, disclosed their names as Apoorva Haldhar, Avadhesh Verma, and Pawan Kumar.



Each of them was found in possession of a backpack/air bag. Further, it is stated that Assistant Sub-Inspector Gopi Singh Paikra, in the presence of the Station House Officer, proceeded against accused Pawan Kumar by serving him a notice under Section 50 of the NDPS Act (Exhibit P-04), informing him of his legal right to have the search conducted before a Magistrate or a Gazetted Officer. The accused consented to have his bag searched by the investigating officer, and a consent memo (Exhibit P-05) was prepared. Prior to conducting the search, the investigating officer offered his own search as well as that of the staff and witnesses to the accused, which yielded no contraband substance. Thereafter, upon searching the backpack of the accused, a large packet was found inside, containing a greenish leafy and flowering substance. On preliminary examination at the spot, the substance was identified as ganja. A seizure and physical verification panchnama (Exhibit P-07) was prepared. The contraband was weighed and homogenized at the spot, and its total weight was found to be 14 kilograms. Out of the same, 50 grams was separated and sealed as sample A-1. A railway journey ticket was also seized from the possession of the accused. The sample packet and the remaining contraband were sealed in the same bag at the spot. Upon returning to the police station, the First Information Report (Exhibit P-17) was registered. The seized contraband and sample were handed over to Head Constable Chintamani for safe custody, and a certificate in this regard (Exhibit P-16) was issued by the Malkhana Moharrir. The accused was arrested, and information of his arrest was given to his family members. During further investigation, the Station House Officer S.L. Ra-



jput sent the seized sample for chemical examination to the Forensic Science Laboratory, Raipur, along with a forwarding letter (Exhibit P-26) issued by the Superintendent of Police, Railway. The receipt thereof is Exhibit P-12A. The FSL report (Exhibit P-29) confirmed that sample A-1 contained ganja.

10. From perusal of the case it appears that Investigation Officer has followed the mandatory provisions of Section 42(1) 42(2) of the NDPS Act 1985 and after giving information to the Superior Gazette Officer, he recovered ganja from the exclusive possession of the accused and the IO has also followed the norms of 52A, 55 and 57 of the NDPS Act. The IO has taken samples of 50:50 grams of ganja and sent for FSL test and FSL report is positive. The trial Court after considering the material available on record and evidence of the prosecution witnesses, convicted the appellant for the offence under Section 20(B)(ii-B) of the N.D.P.S. and sentenced to undergo RI for 5 years to appellant and fine of Rs. 10,000/-. 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 appellant under Section 20(b)(ii-B) of the N.D.P.S. Therefore, the conviction of the appellant is maintained.
11. As regards the sentence awarded to them. Considering the fact that the appellant is facing criminal trial since 2018 and thereafter more than 8 years has been elapsed, considering the age of the appellant at present and further considering the quantity of contraband seized from the possession of the appellant i.e. 14 kg contraband(ganja), which is intermediate quantity and there is no previous criminal an-



tecedents against him and further the appellant has already undergone 2 years, 3 months and 6 days of jail sentence awarded by the trial Court and bail was also granted to him by this Court on 15.10.2020, there would be no useful purpose to send the appellant in jail as he has already suffered undergone sentence and also agony of criminal trial for so many years, that meets the ends of justice. So this Court finds it appropriate to reduce the sentence from RI for 5 years under Section 20(b)(ii-B) of the N.D.P.S. to the period already undergone by the appellant of jail sentence. However, fine amount is maintained.

12. With the aforesaid observations, the criminal appeal is **partly allowed** to the extent indicated hereinabove.
13. 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

Syazid