



HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 366 of 2025

Moh. Salman Shah S/o Munnavar Shah Aged About 28 Years R/o Amirati, Post Badipati, P.S. - Gud, District - Rewa (M.P.), At Present R/o House Of Tulsi Das, Paras Nagar, New Masjid, P.S.- Ganj, Raipur, District - Raipur (C.G.).

... Appellant

versus

State Of Chhattisgarh Through - P.S. Gudhiyari, Raipur, District Raipur (C.G.).

... Respondent

29.04.2025	Mr. Sumit Singh, Counsel for the Appellant assisted by Ms. Vaishali Jaswani, Advocate along with Mr. Harshwardhan Singh Thakur, Advocate. Mr. Shailendra Sharma, Panel Lawyer for the State/respondent. Heard on I.A. No. 02/2025, an application under Section 430(2) of B.N.S.S, 2023 for suspension of sentence



and grant of bail.

By virtue of the impugned judgment of conviction and order of sentence dated 06.01.2025 passed by Learned Special Judge (NDPS Act), Raipur, District-Raipur in Special Case No. 43/2024 (Annexure A/1), whereby the appellant has been convicted and sentenced as under:

<u>Conviction</u>	<u>Sentences</u>
Under Section 22(B) of the NDPS Act, 1985	Rigorous Imprisonment for <u>07 years and fine of Rs. 70,000/-</u> and in event of default in payment of fine additional Rigorous imprisonment for 14 month.
Under Section 29 of the NDPS Act, 1985	Rigorous Imprisonment for <u>07 years and fine of Rs. 70,000/-</u> and in event of default in payment of fine amount additional Rigorous Imprisonment for 14 months.
Both the sentences are directed to run concurrently.	

Learned Counsel appearing for the appellant submits that 30 strips of Spascore-von plus Dicyclomine Hydrochloride Tramadol Hydrochloride Acetaminophen capsules consisting 240 capsules was found from the possession of the appellant in a black bag which was weighed 50 gram. The small quantity is 05 grams and the



commercial quantity is 250 grams. Hence the quantity seized from the possession of the present appellant is in between the small and the commercial quantity. The appellant was in jail for nine months and he has been sentenced for 07 years. Learned counsel for the appellant also contended that the learned trial court failed to appreciate the fact that there is a non-compliance of section 55 of the NDPS Act, 1985 as the Investigating Officer has sealed the samples but time and date and Sanha No. is missing before the order of the Magistrate. Hence the appellant is innocent and has been falsely implicated in connection with the alleged crime. Since the appeal will take some considerable time for its conclusion, therefore, the jail sentence as awarded by the Trial Court be kept in abeyance, till the disposal of this criminal revision.

On the other hand, learned counsel appearing for the Respondent/State has opposed the said application.

Having considered the aforesaid contention of the parties, considering the nature of incident and act committed by the appellant the contraband(240 capsules in 30 strips) has been directly recovered from the possession of the appellant . There are ample of incriminating evidences which shows the direct role of the present appellant, therefore, I am not inclined to allow this application for suspension of sentence and grant of bail



2025:CGHC:13559

without further commenting anything on the merits of this case.

Accordingly, **I.A. No. 02/2025 is rejected.**

List this case for final hearing in its due course.

sd/-

(Arvind Kumar Verma)

Judge

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