



2026:CGHC:13559



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA 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

For Appellant	: Mr. Wasim Miyan, Advocate
For Respondent/State	: Mr. Amit Verma, Panel Lawyer

Hon'ble Shri Justice Sanjay Kumar Jaiswal

Judgment on Board

20.03.2026

1. This appeal has been preferred by the appellant under Section 415 (2) of BNSS, 2023 challenging the impugned judgment of conviction and order of sentence dated 06.01.2025 passed by learned Special Judge (NDPS Act), Raipur, District Raipur (C.G.) in Special Criminal Case (NDPS) No.43/2024, whereby the appellant has been convicted as under:-

<u>Conviction</u>	<u>Sentence</u>
Under Section 22(B) and Section 29 of the	7-7 years rigorous imprisonment and fine of Rs.



NDPS Act, 1985	70,000-70,000/-, in default of payment of fine, to undergo additional R.I. for 14-14 months
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2. The case of prosecution is that, on the basis of information received from an informant on 13.01.2024, police officials of Police Station Gudhiyari, Raipur, after completing necessary formalities conducted raid and seized total 240 capsules of Spascore-von plus Dicyclomine hydrochloride tramadol hydrochloride acetaminophen weighing 134.4 grams from the appellant herein which were kept in a polythene. Thereafter, a case was registered against the appellant and his memorandum statement was recorded. It was further the case of prosecution that on the basis of memorandum statement of the appellant herein, on 14.01.2024 from village Mahashav, Police Station Gudh, District Rewa (M.P.), after completing necessary formalities, the Police Officials again conducted raid and seized total 67 capsules of Spascore-von plus Dicyclomine hydrochloride tramadol hydrochloride acetaminophen weighing 37.52 grams from co-accused Ramavtar Gupta. Thereafter, a case against co-accused Ramavtar was also registered. The seized substance was sent to the Forensic Science Laboratory for testing. As per the test report (Ex.P-66), Tramadol, Dicyclomine and Acetaminophen was found in the seized substance. After completion of investigation, charge sheet was filed against the appellant and co-accused.
3. During the course of trial, in order to bring home the offence, prosecution examined as many as 18 witnesses and exhibited 68 documents in support of its case. The statement of the appellant / accused was also recorded under Section 313 of the CrPC in which he denied the circumstances appearing against him in the evidence brought on record by the prosecution, pleaded innocence and false



implication.

4. Learned trial Court, after appreciation of oral and documentary evidence on record, convicted and sentenced the appellant as mentioned in the opening paragraph of this judgment and also convicted and sentenced the co-accused, against which the present appeal has been preferred by the appellant questioning the legality, validity and correctness of the impugned judgment.
5. Learned counsel for the appellant submits that he does not want to press this appeal on merits and confines his argument only on sentence part. He submits that the appellant has studied upto 9th standard, he was an auto driver, now he is aged about 30 years and having family responsibilities. He already remained in jail for about 1 year, 11 months and 15 days. The incident took place in the year 2024 and since then the appellant is facing *lis*. Hence, by considering all these facts, the sentence of the appellant may be reduced to the period already undergone by him in the interest of justice.
6. Per contra, learned counsel appearing for the State, supported the impugned judgment and opposed the arguments advanced on behalf of the Appellant.
7. Heard learned counsel for the parties and perused the record including the impugned judgment.
8. Having gone through the material available on record and the evidence of Ravindra Kumar Yadav (PW-16), seizure memo (Ex.P-31) and the report of State Forensic Science Laboratory (Ex.P-66), establish the involvement of the Appellant in the crime in question. This Court does not find any illegality or infirmity in the finding recorded by the Trial Court as regards the conviction of the appellant for offence punishable under Section 22(B) and Section 29 of the NDPS Act which is based on evidence available on record and it is hereby affirmed.



9. As regards the 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 jurisprudes 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-culturisation. 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. In the light of the decision of the Hon'ble Supreme Court in the case



of **Mohammad Giasuddin** (supra) and keeping in view the fact that the appellant is facing the *lis* since 2024, he has no criminal antecedent, as per arrest memo (Ex.P-35) of the appellant, he had studied upto 9th standard, he was an auto driver and having family responsibilities. He already remained in jail for about 1 years 11 month and 15 days. Considering all these facts, this Court opines that justice would be served if the appellant's sentence is reduced to the period already undergone by him.

11. Accordingly, the conviction of the appellant for offence under Section 22(B) and Section 29 of the NDPS Act is maintained and the sentence of RI for 7-7 years is reduced to the period already undergone by him i.e. 1 year, 11 months and 15 days. However, the fine amount and its default stipulation imposed by the trial Court shall remain intact.
12. Consequently, the appeal is **partly allowed** to the extent indicated hereinabove.
13. The appellant is in jail. He be released forthwith if not required to be detained in any other case/s or any default sentence for fine.
14. Let a certified copy of this judgment along with the original record be transmitted forthwith to the trial Court concerned. A copy of this judgment be also sent to the concerned Jail Superintendent where the Appellant is serving his jail sentence, for information and necessary compliance.

Sd/-
(Sanjay Kumar Jaiswal)
Judge