



2026:CGHC:17508

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRA No. 724 of 2024**

Shani Jaiswal S/o Krishna Kumar Jaiswal Aged About 37 Years R/o -
Village Rehda Chungi, Police Station- Vindhyachal, District- Mirjapur (U.P.).

... Appellant**versus**

State of Chhattisgarh through- Aarakshi Kendra G.R.P. Raipur, District-
Raipur, Chhattisgarh.

... Respondent

For the appellant : Ms. Ranjana Jaiswal, Advocate

For the state : Mr. Rishabh Bisen, Panel Lawyer

(Hon'ble Shri Justice Sanjay Kumar Jaiswal)**(Order on Board)****16/04/2026**

1. The present criminal appeal under Section 415(2) of the Bharatiya Nagarika Suraksha Sanhita, 2023 has been preferred by appellant challenging the judgment of conviction and order of sentence dated 07.12.2023 passed by the learned Special Judge (NDPS) Act, Raipur (C.G) in Special Criminal Case No. 95/2023 whereby the appellant has been convicted and sentenced as under:

Conviction	:	Sentence
U/s 20(b)(ii)(B) of the NDPS Act		RI for 07 years and fine of Rs.25,000 in default of payment fine, additional RI for 3 months.

2. The allegation against the appellant is that on 19.03.2023, when a raid was conducted at a Platform of Raipur Railway Station, the appellant was found in possession of a total quantity of 15 Kgs. of narcotic Ganja and the said quantity of Ganja was recovered from him, thereby offence was committed by him under section 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985. After completing the requisite procedural formalities/mandatory requirements, the accused was arrested and the charge sheet was filed.
3. The prosecution has in all examined 9 witnesses and exhibited 44 documents to prove its case. The accused were examined under Section 313 CrPC wherein they pleaded innocence and false implication. After conclusion of trial and considering the evidence of prosecution witnesses and material available on record, learned Trial Court by impugned judgment, convicted and sentenced the appellants as mentioned above.
4. At this stage, learned counsel for the appellant submits that she does not want to press this appeal on merits and confines her argument only to sentence part. She also submits that out of the maximum jail sentence of 07 years RI imposed on appellant u/s 20(b)(ii)(B) of NDPS Act for carrying contraband ganja, the appellant had already spent in jail for 2 years 9 months and 3 days and still he is in jail. She further submits that the incident took place in 2023 and since then he is facing the trauma of trial and further there are no criminal antecedents reported against him, therefore, looking to these aspects, the sentence of the appellant be reduced to the period already undergone by him in the interest of justice.

5. Per contra, learned State Counsel supports the impugned judgment and opposes the arguments advanced on behalf of the Appellant.

6. I have heard learned counsel for the parties and have also perused the material available on record including the impugned judgment.

7. Having gone through the material available on record and the statements of witnesses especially the ASI L.S. Rajput (P.W.9) who substantially proved the recovery of contraband from the possession of the appellant vide Ex. P-7 & Ex.P-10 as also the FSL Report (Ex.P-44) which shows that the sample material contained in Article 'S-1' was found to be positive Ganja, this Court does not find any illegality or infirmity in the findings recorded by the trial Court as regards the conviction of the appellants for the offence punishable u/s 20(b)(ii)(B) of the NDPS Act and it is hereby affirmed.

8. In case of **Mohammad Giasuddin v. State of Andhra Pradesh** reported in **(1977) 3 SCC 287**, Hon'ble Supreme Court while emphasizing the reformatory approach expounded the words expressed by 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". Para-9 of the said judgment is quoted below:

“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."

9. In view of the above discussion and applying the analogy of reformatory approach laid down in **Mohammad Giasuddin** (supra) and keeping in view the fact that the sentence imposed upon the appellant is RI for 07 years, out of which, he has already spent in jail for 2 years 9 months and 3 days; presently he is in jail and further as per the arrest memo (Ex.P-11), the appellant had studied upto 5th Class; by profession, he is a vegetable vendor and no criminal antecedents are shown against him, it will be just and proper if the sentence of 07 years RI awarded by the trial court for offence under section 20(b)(ii)(B) is reduced to the period already undergone by the appellant. Accordingly, while maintaining the appellant's conviction, the sentence awarded to him is hereby reduced to the period already undergone. However, it is made clear that the sentence of fine of Rs.25,000/- as imposed by the trial Court and the default stipulation thereof, shall remain intact.

10. In the result, the appeal is **allowed in part** to the extent indicated hereinabove.

11. The appellant is in jail. He shall be released from jail forthwith if he is not required in any other offence.

12. Let a certified copy of this judgment along with the original record be transmitted to the concerned trial Court forthwith for information and necessary action. A copy of this judgment be also sent to the concerned Superintendent of Jail where the appellants are undergoing jail sentence.

Sd/-

(Sanjay Kumar Jaiswal)
Judge

Rao