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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRA No. 356 of 2020**

Vijendra Singh S/o Shri Durgadyal Singh Aged About 42 Years R/o Shantipara, Mahuapara, Thana- Gandhinagar Ambikapur, District- Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

... Appellant**versus**

State Of Chhattisgarh Through The District Magistrate Ambikapur, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

... Respondent(s)

For Appellant : Mr. Sunil Sahu, Advocate

For Respondent(s) : Ms. Aveline Juneja Gambhir, Panel Lawyer

Hon'ble Shri Justice Arvind Kumar Verma**Judgment on Board****19/03/2026**

1. This criminal appeal has been filed under Section 374 (2) of Cr.P.C., 1973 by the appellant against the judgment of conviction and order of sentence dated 25.02.2020 passed by the learned Special Judge (NDPS Act) Surguja Ambikapur (C.G.), in Special



Criminal (NDPS) Case No. 05/2018, whereby the appellant has been convicted and sentenced as follows:-

Convicted	Sentenced to
U/s 20(b)(ii)(B) of N.D.P.S. Act, 1985	R.I. for 5 years with fine of Rs. 25,000/-, in default of payment of fine, additional R.I. for 1 year.

2. Case of the prosecution, in brief, is that on 03.02.2018, A.S.I. Alango Kumar Das, posted at Police Station Gandhinagar, received information that the accused was transporting ganja on a Pulsar motorcycle (CG 15 CX 9705) towards Uttar Pradesh via Banaras Road. The information was recorded, witnesses were summoned, and due to urgency, search was conducted without warrant after recording reasons and informing superior officers. A blockade was set up near Chathirma Forest Barrier, where the accused was intercepted and identified as Vijendra Singh. After compliance with Section 50 of the NDPS Act and necessary search formalities, search of the motorcycle led to recovery of ganja kept in a bag. On weighment, the contraband was found to be 6.200 kg (excluding packing). Samples were drawn, sealed, and the remaining contraband was seized. The accused was arrested, and seizure and other procedural documents were prepared. The seized articles were deposited in the police station, and FIR was registered. During investigation, samples were sent to the Regional Forensic Science Laboratory, Ambikapur, which



confirmed the substance to be ganja. After recording statements of witnesses and completing investigation, charge-sheet was filed.

3. Charges were framed against the accused under Section 20(b)(ii) (B) of the NDPS Act. The accused denied committing the offence. In his statement under Section 313 CrPC, the accused claimed innocence and stated that he had been falsely implicated.
4. The learned Special Judge (NDPS Act) Sarguja Ambikapur (C.G.), after appreciating oral and documentary evidence available on record vide judgment dated 25.02.2020, 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.
5. The appellant was in jail from 03.02.2018 to 31.08.2018 (6 months 28 days) and from 25.02.2020 to 19.06.2020 (3 months 22 days).
6. Learned counsel for the appellant would submit that the appellant is innocent person and has been falsely implicated in the afore-said 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.
7. Learned counsel for the appellant submits that he does not want to press this appeal on merits and confine his arguments to the



sentence part thereof only. Further, he submits that the appellant at present is aged about 48 years and as he is facing criminal trial since 2018 and has already undergone around 11 months of jail sentence 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.

8. Learned Panel Lawyer appearing for the respondent/State, submits that the Trial Court has rightly convicted and sentenced the appellant, in which no interference is called for.
9. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
10. From perusal of the records, it transpires that on 03.02.2018, A.S.I. Alango Kumar Das of Police Station Gandhinagar received information that the accused was transporting ganja on a Pulsar motorcycle (CG 15 CX 9705) towards Uttar Pradesh. The information was recorded, witnesses were summoned, and due to urgency, search was conducted without warrant after recording reasons and informing superior officers. A blockade was set up near Chathirma Forest Barrier, where the accused, Vijendra Singh, was apprehended. After compliance with Section 50 of the NDPS Act and search formalities, ganja was recovered from the motorcycle. On weighment, the contraband was found to be 6.200 kg. Samples were drawn, sealed, and the remaining contraband was seized.



The accused was arrested, FIR was registered, and the seized articles were deposited in the Malkhana. The samples were sent to the Regional Forensic Science Laboratory, Ambikapur, which confirmed the substance to be ganja. After completion of investigation, charge-sheet was filed. After following the due processes, the learned Special Judge convicted the appellant under Section 20(b)(ii)(B) of the NDPS Act, 1985 and sentenced to undergo RI for 5 years to appellant and fine of Rs. 25,000/-. 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.

11. Therefore, the essence of the above discussion is that the Investigating Officer in this case appears to have followed all the mandatory and directive provisions of the NDPS Act. There is no concrete reason to disbelieve the evidence of the Investigating Officer and other witnesses and the action taken by them. The accused did not produce any valid license or document in relation to the narcotic substance recovered from his possession. Therefore, it is proved that the appellant possessed 6.200 kg of ganja in violation of the provisions of the NDPS Act.
12. As regards the sentence awarded to the appellant. Considering the fact that the appellant is facing criminal trial since 2018, considering the age of the appellant at present and further considering



the quantity of contraband seized from the possession of appellant i.e. 6.200 kg contraband(ganja), which is intermediate quantity and there is no previous criminal antecedents against him and further the appellant was in jail from 03.02.2018 to 31.08.2018 (6 months 28 days) and from 25.02.2020 to 19.06.2020 (3 months 22 days), therefore, this Court is of the opinion that in the interest of justice, the sentence imposed upon the appellant is reduced to the period already undergone by the appellant under Section 20(b)(ii)(B). However, fine imposed by trial Court is maintained.

13. With the aforesaid observations, the criminal appeal is **allowed in part**. The appellant is held guilty of committing offence under Section 20(b)(ii)(B) of NDPS Act and is convicted for the said offence. However, the sentence is reduced to the period already undergone by him. The appellant is reported to be on bail. Surety and personal bond earlier furnished at the time of suspension of sentence shall remain operative for a period of six months in view of the provisions of Section 437-A Cr.P.C.
14. It is further observed that this Court, vide order dated 24.01.2023, had granted interim custody of the seized Pulsar motorcycle bearing registration No. CG-15 B 9705 to its registered owner, Aman Kumar Singh. As the said registered owner has not challenged the confiscation order, the present judgment shall not have any bearing on the confiscation proceedings relating to the said vehicle.



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15. 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

Madhurima