



2026:CGHC:12914

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 543 of 2018

- Prashant Kumar Choubey S/o Vishnu Prasad Choubey Aged About 29 Years R/o- Naya Sarkanda Bangalipara, Jorapara Modke Pass Thana- Sarkanda, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh **... Appellant(s)**

versus

- State Of Chhattisgarh Through- Police Station- Torva, Bilaspur, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh **---Respondent**

For Appellant : Mr. Vikas Pandey, Advocate

For Respondent : Mr. Jitendra Shrivastava, G.A.

Hon'ble Shri Justice Arvind Kumar Verma,

Judgment on Board

18.03.2026

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 06.04.2018 passed by the learned Special Judge (N.D.P.S. Act) Bilaspur in Special NDPS Trial No. 194/2016, 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 1 year with fine of Rs. 15,000/- and in default of payment of fine, additional R.I. for 2 months.

2. The prosecution case, in brief, is that on 07.03.2016 at about 18:20 hours, Sub-Inspector Laxman Bhagat, posted at Police Station Torwa, Bilaspur, received a credible information through a mobile phone from an informant that two persons were transporting illegal contraband ganja in a white Swift car bearing registration No. CG-11-M-1778 and were proceeding towards Bilaspur city from Lalkhadan for the purpose of sale. Acting upon the said information, a memorandum of information (Mukhabir Suchna Panchnama) was prepared and the same was communicated to CSP Kotwali via mobile. Thereafter, the Sub-Inspector, along with necessary documents, weighing instruments, and staff namely Head Constable No. 320 Pritam Singh, Constable No. 110 Dhirendra Singh, and independent witnesses Firoz Khan and Lallu Chauhan, proceeded to the spot for conducting a raid. Sub-Inspector R.S. Netam and Sub-Inspector Deepika Nirmalkar were also informed and they reached the spot. A naka (checkpoint) was established and during vehicle checking, the said white Maruti Swift car bearing registration No. CG-11-M-1778 was intercepted while approaching from Lalkhadan. The vehicle was stopped and surrounded. In compliance with the provisions of the NDPS Act, consent of the accused persons namely Umesh Singh and Prashant Kumar Chaubey was obtained, and after conducting personal search of the police party and witnesses, search of the accused persons and the vehicle was carried out. Upon search, two packets of contraband ganja, packed in khaki-colored polythene, were recovered from beneath the middle seat of the car. All necessary documents were prepared on the spot and notice under Section 91 Cr.P.C. was served upon the accused persons. As per the seizure memo, approximately 900 grams each of ganja (in loose, fibrous, seed-containing and moist form) was seized separately from the possession of the accused in presence of witnesses. Out of the seized contraband, samples of 100 grams each were drawn

separately, sealed on the spot, and cash amounting to Rs. 2,535/- alleged to be sale proceeds was also seized. As the act of the accused persons constituted an offence under Section 20(b) of the NDPS Act, a crime was registered and investigation was taken up. A spot map was prepared, FIR was lodged at the police station, and the accused persons were arrested. Statements of witnesses were recorded. The seized contraband was sent to the Regional Forensic Science Laboratory, Bilaspur, where it was confirmed to be ganja. Intimation regarding the entire proceedings was sent to the superior officers and the concerned Court. Upon completion of investigation, a charge-sheet under Section 20(b) of the NDPS Act was filed against the accused persons before the competent Court.

3. The learned Special Judge (N.D.P.S.), Act, Bilaspur, after appreciating oral and documentary evidence available on record vide judgment dated 06.04.2018, 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 07.03.2016 to 01.04.2016 (26 days) and thereafter he was in jail from 06.04.2018 to 12.04.2018 (6 days). Total jail period 32 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 39 years and as he is facing criminal trial since 2016 and the appellant has already undergone more than 32 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 07.03.2016 at about 18:20 hours, Sub-Inspector Laxman Bhagat, posted at Police Station Torwa, Bilaspur, received a credible information through a mobile phone from an informant that two persons were transporting illegal contraband ganja in a white Swift car bearing registration No. CG-11-M-1778 and were proceeding towards Bilaspur city from Lalkhadan for the purpose of sale. Acting upon the said information, a memorandum of information (Mukhabir Suchna Panchnama) was prepared and the same was com-

municated to CSP Kotwali via mobile. Thereafter, the Sub-Inspector, along with necessary documents, weighing instruments, and staff namely Head Constable No. 320 Pritam Singh, Constable No. 110 Dharendra Singh, and independent witnesses Firoz Khan and Lallu Chauhan, proceeded to the spot for conducting a raid. Sub-Inspector R.S. Netam and Sub-Inspector Deepika Nirmalkar were also informed and they reached the spot. A naka (checkpoint) was established and during vehicle checking, the said white Maruti Swift car bearing registration No. CG-11-M-1778 was intercepted while approaching from Lalkhadan. The vehicle was stopped and surrounded. In compliance with the provisions of the NDPS Act, consent of the accused persons namely Umesh Singh and Prashant Kumar Chaubey was obtained, and after conducting personal search of the police party and witnesses, search of the accused persons and the vehicle was carried out. Upon search, two packets of contraband ganja, packed in khaki-colored polythene, were recovered from beneath the middle seat of the car. All necessary documents were prepared on the spot and notice under Section 91 Cr.P.C. was served upon the accused persons. As per the seizure memo, approximately 900 grams each of ganja (in loose, fibrous, seed-containing and moist form) was seized separately from the possession of the accused in presence of witnesses. Out of the seized contraband, samples of 100 grams each were drawn separately, sealed on the spot, and cash amounting to Rs. 2,535/- alleged to be sale proceeds was also seized. As the act of the accused persons constituted an offence under Section 20(b) of the NDPS Act, a crime was registered and investigation was taken up. A spot map was prepared, FIR was lodged at the police station, and the accused persons were arrested. Statements of witnesses were recorded. The seized contraband was sent to the Regional Forensic Science Laboratory, Bilaspur,

where it was confirmed to be ganja. Intimation regarding the entire proceedings was sent to the superior officers and the concerned Court.

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 100:100 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 1 year to appellant and fine of Rs. 15000/-. 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 2016 and thereafter more than 10 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. 900 gm contraband(ganja), which is small quantity and there is no previous criminal antecedents against him and further the appellant has already undergone 32 days of jail sentence awarded by the trial Court and bail was also granted to him by this Court on 12.04.2018, 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 1 year 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

Syoti