



2026:CGHC:14934

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRA No. 612 of 2018**

Pradeep Kumar Das, S/o Chandra Badan Das, Aged About 26 Years R/o
Village- Kasrupada, Police Station Kesinga, District Kalahandi, Orissa

...Appellant**versus**

State of Chhattisgarh Through Station House Officer, Police Station Khamtarai,
District Raipur, Chhattisgarh

... Respondent

For Appellant : Mr. C.R. Sahu, Advocate

For State /Respondent : Mr. Suresh Tandan, PL

(Hon'ble Shri Justice Arvind Kumar Verma)**Judgment on Board****01/04/2026**

1. This criminal appeal preferred by the appellant under Section 374 (2) of the Code of Criminal Procedure is directed against the impugned judgment dated 17/04/2018 passed by the Special Judge, Raipur, District Raipur, C.G. in Special Criminal Case under the NDPS Act No.66/2017 whereby the appellant has been convicted and sentenced as under:-



Conviction	Sentence
Under Section 20 (ii) (B) of the NDPS Act	R.I. for 1 Year & 06 Month and fine of Rs.10,000/- in default of payment of fine to undergo additional R.I. for 6 Months.

2. The case of the prosecution in brief is that on 28.01.2017 at 20.55 hrs, Assistant Sub Inspector J.S. Maravi of Police Station Khamtarai received information from an informant that a person near Vinoo Petrol Pump, Bhanpuri was keeping Ganja inside an air bag, on which the Investigating Officer called the witnesses and prepared informant information panchnama and panchnama of not obtaining search warrant in their presence. The information of the crime was sent to City Superintendent of Police, Urla, Raipur. The Investigating Officer along with the witnesses went to Vyas Pond near Vinoo Petrol Pump and on finding the accused Pradeep Kumar Das as per the information of the informant, he was asked to search his bag and get himself searched by a Magistrate or a Gazetted Officer or the investigator was informed about the search and was asked to give consent for the search. A consent panchnama was prepared. The investigator allowed himself, the police staff, the witnesses and his vehicles to be searched by the accused in which no ganja was found. When the investigator searched the black blue coloured air bag found with the accused, ganja was found in a bundle inside it which was recovered. The ganja was identified. The ganja was crushed. An electronic weighing scale was called from constable Virendra Markole and its physical verification was done which was 4 kg 500 grams from which two samples of 50-50 grams were



prepared. The marijuana and samples prepared from it were seized from the accused. A site map of the place was prepared.

3. The investigating officer arrived at the police station and deposited the seized property in the police station's treasury, filed a First Information Report, and recorded witness statements. A Patwari prepared a site map of the incident, which revealed marijuana. The investigating officer completed the investigation and submitted a final report on March 23, 2017.
4. When charges were framed against the accused under Section 20(ii)(B) of the NDPS Act, he denied having committed the crime. At trial under Section 313 of the CrPC, the accused pleaded innocence and claimed to have been falsely implicated.
5. Learned trial Court after examining the material and evidence available convicted the accused persons. Hence this appeal.
6. Learned counsel appearing for the appellants submits that he is not pressing this appeal on merits and confining the arguments to the quantum of sentence only. He would next contend that the sentence awarded to the appellants is R.I. for 1 Year & 06 Months and the appellant was in jail since 28/01/2017 to 26/04/2018 i.e. approx 1 Year & 3 Months thereafter he was granted bail by this Court and presently also he is on bail. He would next contend that since the incident is of the year 2017 and nearly 09 years have elapsed, therefore, it is prayed that the sentence awarded to appellant be reduced to the period already undergone by him.



7. *Per contra*, learned State counsel would submit that the judgment of the trial Court is well merited which do not call for any interference.
8. I have heard learned counsel for the parties and perused the evidence.
9. Upon careful re-appreciation of the entire evidence available on record, this Court proceeds to examine whether the conviction recorded by the learned trial Court is sustainable.
10. The prosecution case, in brief, is that on the basis of prior information, the investigating officer proceeded to the spot and apprehended the appellant, from whose conscious possession contraband (ganja) weighing about 4 kg 500 grams was recovered. The seizure was duly effected in the presence of witnesses and necessary seizure memos were prepared.
11. The evidence of the prosecution witnesses, particularly the investigating officer and seizure witnesses, consistently establishes that the contraband was recovered from the possession of the appellant. Their testimonies remain cogent and trustworthy and nothing substantial has been elicited in their cross-examination so as to discredit their version. Minor discrepancies, if any, are natural and do not go to the root of the prosecution case.
12. So far as compliance of mandatory provisions of the NDPS Act is concerned, it is reflected from the record that the information received was reduced into writing and necessary steps were taken by the investigating agency. The seizure proceedings were conducted in



accordance with law and the samples were duly drawn, sealed, and sent for chemical examination. The FSL report confirms that the seized substance was ganja. There is no material irregularity shown which would vitiate the trial or render the recovery doubtful. The link evidence connecting the seized articles with the report of the chemical examiner also stands duly proved. The chain of custody remains intact and there is no suggestion of tampering.

13. In view of the aforesaid discussion, this Court finds that the prosecution has been able to prove beyond reasonable doubt that the appellant was in conscious possession of contraband substance and thereby committed the offence punishable under Section 20(ii)(B) of the NDPS Act. The finding of conviction recorded by the learned trial Court is thus well-founded and calls for no interference.

14. Now coming to the question of sentence, this Court takes note of the fact that the appellant has already undergone a substantial period of incarceration. As reflected from the record, the appellant remained in custody from 28.01.2017 and was later enlarged on bail by this Court during the pendency of the appeal. The total period of detention undergone by the appellant is significant. It is also pertinent that the quantity involved, though above small quantity, is not of commercial quantity. There is no material to indicate that the appellant is a habitual offender or that he was involved in any organized illegal trade. Further, the appeal has remained pending for a considerable period, and the appellant has faced the rigours of criminal proceedings for a long



duration. There is nothing on record to suggest that the appellant has misused the liberty granted to him while on bail.

15. Considering the totality of circumstances, including the nature and quantity of contraband, the period of incarceration already undergone, the conduct of the appellant, and the prolonged pendency of proceedings, this Court is of the considered opinion that the ends of justice would be adequately met by modifying the sentence to the period already undergone.
16. Accordingly, the conviction of the appellant under Section 20(ii)(B) of the NDPS Act is affirmed. The sentence awarded by the trial Court is modified to the period already undergone by the appellant. The fine amount, if already deposited, shall stand affirmed; if not, it shall be paid as directed by the trial Court.
17. Accordingly, the appeal is **partly allowed**.
18. Appellant is on bail. His bail bonds shall remain operative for a period of 06 months in view of Section 437A of CrPC (now Section 481 of Bhartiya Nagrik Suraksha Sanhita, 2023).
19. The lower court record along with a copy of this judgment be sent back immediately to the trial court concerned for compliance and necessary action.

SD/-
(Arvind Kumar Verma)
JUDGE