



2026:CGHC:12911



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 518 of 2017

1 - Kuraso Baghel S/o Indar Baghel, Aged About 30 Years R/o Kirana Shop Panarapara Police Station Kotwali, Jagdalpur Chhattisgarh , Chhattisgarh

2 - Pooran Kashyap S/o Tonko Kashyap, Aged About 29 Years Auto Driver R/o New Bus Stand Gandhi Nagar Police Station Bodhghat Jagdalpur District Bastar Chhattisgarh , District : Bastar(Jagdalpur), Chhattisgarh

... Appellants

versus

State Of Chhattisgarh Through Police Station Darbha District Bastar Chhattisgarh Wrongly Mentioned As Bodhghat , Chhattisgarh

... Respondent(s)

For Appellants : Mr. Kalpesh Ruparel, Advocate

For Respondent(s) : Mr. Shailesh Puriya, Panel Lawyer

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., 1973 by the appellants against the judgment of conviction and order of sentence dated 21.03.2017 passed by the learned



Special Judge (NDPS Act) Bastar, Place- Jagdalpur (C.G.), in Special Case No. 05/2016, whereby the appellants have 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 4-4 years with fine of Rs. 10,000 - Rs. 10,000/-, in default of payment of fine, additional R.I. for 3 months.

2. Case of the prosecution, in brief, is that, on 23.02.2016, a CRPF party of Company No. 227 was on road opening duty from Jeeram Camp towards Tongpal. At that time, two persons (the accused) were seen coming from Tongpal towards Jagdalpur on a motorcycle CG-17 KF 9574 (Hero CD Deluxe). On suspicion, they were stopped and checked. During search, ganja (narcotic substance) was found in bags under the possession of the accused Kurso Badhel and Puran Kashyap. CRPF Assistant Sub-Inspector Babu-lal Mohanty produced the accused along with the seized contraband at Police Station Darbha, where further action was taken under the provisions of the NDPS Act. From the separate bags of the accused, 4.800 kg and 3.900 kg, totaling 8.700 kg of ganja, was recovered. After identification, the contraband was seized. From both bags, 50–50 grams were taken as samples, and the remaining ganja was sealed. The vehicle documents, samples, and remaining ganja were seized. The accused were arrested and their families were informed. The seized ganja was sent to the Forensic



Science Laboratory (FSL), which confirmed that the substance was ganja. Upon confirmation of illegal transportation of ganja by motorcycle, a charge sheet was prepared. During investigation, the following documents were prepared:

Notice under Section 160 CrPC (Exhibit P/01), Notice under Section 50 NDPS Act (Exhibit P/02), Notices to independent witnesses (Exhibit P/03), Search panchnama (Exhibit P/04), Seizure panchnama (Exhibit P/05), Notice under Section 67 NDPS Act (Exhibit P/06), Identification panchnama (Exhibit P/07), Weighing scale verification panchnama (Exhibit P/08), Weighing panchnama (Exhibit P/09), Seizure of contraband panchnama (Exhibit P/10), Sample panchnama (Exhibit P/11), Seal sample panchnama (Exhibit P/12), Seizure memo of contraband, vehicle documents, and samples (Exhibit P/13), Arrest grounds panchnama (Exhibit P/14), Arrest memo of Kurso Badhel (Exhibit P/15), Arrest memo of Puran Kashyap (Exhibit P/16), Spot map prepared by Patwari (Exhibit P/17), Duty certificate (Exhibit P/18), Station diary extract (Exhibit P/20-C), Notice to independent witnesses (Exhibit P/21-C), Information sent to superior officers (Exhibit P/22-C), Sample seal (Exhibit P/24), Arrest information (Exhibits P/25 & P/26), Case diary report (Exhibit P/27), Crime detail form (Exhibit P/28), FIR (Exhibit P/29)

3. The seized contraband was sent to the State Forensic Science Laboratory, Raipur through the Superintendent of Police, Bastar for chemical examination. The forwarding letter (Exhibit P-32), its



receipt (Exhibit P-33), and the FSL report (Exhibit P-34) were filed.

Copies of dispatch and return entries were also filed (Exhibits P-31-C and 32-C). After completion of investigation, the charge sheet was filed before the Court. By the learned predecessor Judge, on 15.05.2016, charges were framed against the accused under Section 20(b)(ii)(B) of the NDPS Act, 1985. The accused denied the charges and claimed innocence. Their statements were recorded separately.

4. The learned Special Judge (NDPS Act) Bastar, Place- Jagdalpur (C.G.), after appreciating oral and documentary evidence available on record vide judgment dated 21.03.2017, 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 appellants were in jail from 23.02.2016 to 26.02.2018 (2 years and 3 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 no. 1 at present is aged about 39 years and appellant no. 2 is aged about 38 years and as they are facing criminal trial since 2016 and has already undergone more than 2 years and 3 days 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 23.02.2016, a CRPF party of Company No. 227 was on road opening duty from Jeeram Camp towards Tongpal when two persons, namely Kurso Badhel and Puran Kashyap, were intercepted while travelling on a motorcycle (CG-17 KF 9574). Upon search, ganja was recovered from bags in their possession. The accused, along with the seized contraband, were produced at Police Station Darbha, where proceedings under the NDPS Act were initiated. From the separate bags of the accused, 4.800 kg and 3.900 kg of ganja, totaling



8.700 kg, was recovered. Samples of 50 grams each were drawn, and the remaining contraband was sealed and seized along with the motorcycle and relevant documents. The accused were arrested and informed of the grounds of arrest. During investigation, necessary panchnamas and documents were prepared, including notices under Sections 50 and 67 of the NDPS Act, seizure and search panchnamas, arrest memos, and other procedural documents. The seized contraband was sent to the Forensic Science Laboratory, Raipur, which confirmed the substance to be ganja. After completion of investigation, the charge sheet was filed. Charges under Section 20(b)(ii)(B) of the NDPS Act were framed against the accused on 15.05.2016, which they denied and claimed to be tried. 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 4 years to and fine of Rs. 10,000/- to each appellant. 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 appellants 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 8 kg 700 gm 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 appellants are facing criminal trial since 2016, considering the age of the appellants at present and further considering the quantity of contraband seized from the possession of appellant i.e. 8 kg 70 gm contraband(ganja), which is intermediate quantity and there is no previous criminal antecedents against him and further the appellants were in jail from 23.02.2016 to 26.02.2018 (2 years and 3 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 appellants are held guilty of committing offence under Section 20(b)(ii)(B) of NDPS Act and are convicted for the said offence. However, the sentence is reduced to the period already undergone by them. The appellants are 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. 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