



2026:CGHC:10405



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1324 of 2017

Tapash Sardar S/o Tarak Sardar, aged about 24 years, R/o M.V. 52, Neerakhamar, Nilakhmari, Arkel, P.S. Balimela, District Malkangiri, (Orissa)

... Appellant

Versus

State of Chhattisgarh, through P.S. Borai, Dhamtari, (C.G.)

... Respondent

For Appellant : Mr. Rahil Arun Kochar, Advocate.

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

Hon'ble Shri Justice Arvind Kumar Verma

Judgement on Board

27.02.2026

1. This appeal is preferred under Section 374 (2) of the Code of Criminal Procedure, 1973 against the judgment dated 08.08.2017 passed by learned Special Judge (NDPS Act) Dhamtari, (C.G.) in Special Case S.T. No. 128/2016, wherein the said Court convicted the appellant and sentenced him as under:-

Conviction	Sentence
U/S 20 b (ii) (B) of NDPS Act.	R.I for 06 years with fine amount of Rs. 30,000/-, in default of payment of fine, to undergo further R.I. for 01 year.

2. As per case of the prosecution, on 27.10.2016 the Sub Inspector Sanjay Kumar Yadav has received a secret information through



the informant that the accused/Tapash Sardar is coming from Ghurkel to Nagari by T.V.S. Star Motorcycle No. OR-30-1057 carrying ganja of 6.340 kg quantity in a black bag of his motorcycle. Upon receiving of this secret information, he recorded the secret information and prepared Mukhbir Suchna Panchnama in presence of the witnesses. He also informed about this information to the higher officials, thereafter he reached the spot along with the witness. In compliance of Section 50 of the NDPS Act he gave notice to the appellant and obtained his consent for search. After completion of other formalities he returned to the police station along with the seized property in Malkhana. The samples of seized cannabis were sent to FSL for its chemical examination. After completion of due and necessary investigation, a charge-sheet was filed by the police.

3. To robe the appellant in the crime in question, prosecution has examined as many as 10 witnesses. In the statement of the appellant recorded under Section 313 Cr.P.C., the appellant pleaded his innocence and false implication in the case. However, no evidence has been adduced by the appellant in his defence.
4. Learned Trial Court after hearing the counsel for the respective parties and considering the material available on record, has convicted and sentenced the accused/appellant as mentioned in opening para of this judgment.
5. 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 33 and he is facing criminal trial since 2013 and has already undergone more than 03 years jail sentence awarded by the trial Court in NDPS Case No.128/2018. 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.

6. *Ex adverso*, learned counsel for the respondent/State supporting the impugned judgment submits that learned Trial Court after minutely appreciating the oral and documentary evidence has rightly convicted and sentenced the appellant. So, there is no scope for interference by this Court. This appeal being without any merit is liable to be dismissed.
7. I have heard learned counsel for the parties and perused the material available on record including the impugned judgment.
8. From perusal of the records, it transpires that the Investigating Officer has complied with the mandatory provisions of Section 42 (2) of the NDPS Act, 1985 and also complied with the provisions of Sections 55 and 57 of the NDPS Act, 1985. On perusal of record, it reveals that there is no subsisting enmity between the accused/appellant and the Investigating Officer. The proceeding of the investigation is transparent, therefore, this Court is of the view that the learned trial Court has minutely appreciated the oral and documentary evidence and after 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 it as regards conviction of the appellant under Section 20 b (ii)(B) of the NDPS Act, 1985. As far as sentence is concerned, the learned trial Court has awarded 06 years rigorous imprisonment with a fine of Rs. 30,000/- under Section 20 b (ii) B of the NDPS Act, 1985.

9. 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 6.340 kg of ganja in violation of the provisions of the NDPS Act.
10. As regards the sentence, keeping in view the facts that incident took place in the year 2016 and nearly 10 years have rolled by since then. The appellant is now aged about 33 years; and out of 6 years of jail sentence, the appellant has already undergone more than 03 years of jail sentence i.e., more than 50% of the jail sentence and he did not misuse the liberty so granted to him, while being on bail, however he has no criminal antecedents and he is facing the */is* since 2016 i.e., for about more than 10 years and no useful purpose would be served in again sending him to



jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon him is reduced to the period already undergone by him.

11. *Ex consequenti*, the appeal is **partly allowed**. Conviction of the appellant under the aforementioned section is affirmed and he is sentenced to the period already undergone by him. However, the fine amount imposed by the Trial Court shall remain intact. The impugned judgment stands modified to the above extent. He be released forthwith if not required in any other case.
12. The appellant is reported to be on bail, therefore, his bail bond shall remain in operation for a period of six months from today in view of provision of Section 481 of BNSS, 2023.
13. The trial 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