



2026:CGHC:21097

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 60 of 2013**

1 - Natvar @ Kailash Das, S/o Ganesh Das, Aged About 26 Years, R/o Bhanjuba, P.S. Gogari, District- Khgariya, Bihar.

... Appellant**versus**

1 - State of Chhattisgarh Through: Police Station G.R.P. Bilaspur, District- Bilaspur C.G.

... Respondent(s)

For Appellant	:	Mr. R.K. Jain, Advocate
For Respondent(s)/State	:	Ms. Shubha Shrivastava, P.L.

Hon'ble Smt. Justice Rajani Dubey**Judgment On Board****06/05/2026**

1. The present appeal has been preferred under Section 374(2) of the Code of Criminal Procedure, 1973, assailing the judgment of conviction and order of sentence dated 24.11.2012 passed by the learned Special Judge, Bilaspur (C.G.) under the Narcotic Drugs



and Psychotropic Substances Act, 1985, in Special Case No. 06/2012. By the said judgment, the appellant has been convicted for the offence punishable under Section 20(b)(ii)(B) of the NDPS Act, 1985 and has been sentenced to undergo rigorous imprisonment for a period of four years along with a fine of Rs. 5,000/- and in default of payment of fine, the appellant shall undergo additional rigorous imprisonment for five months.

2. The case of the prosecution, in brief, is that on 01.04.2012, Assistant Sub-Inspector (ASI) K.C. Dey, posted as Sub-Inspector at GRP Bilaspur, received credible information from an informant that a person was intending to travel towards the Howrah end of Railway Station, Bilaspur, at Platform Nos. 2 and 3, beneath the Railway Over Bridge, for the purpose of illegal sale of narcotic substance (ganja). Acting upon the said information, ASI K.C. Dey, being the Investigating Officer, recorded the information and proceeded in accordance with law. Independent witnesses, namely Sheru Khan and Dileshwar Chandra were issued notices under Section 91 of the Code of Criminal Procedure (CrPC) and were called to the police station. In their presence, the information received from the informant was reduced into writing and an information panchnama was prepared. The same was entered into Daily Diary Register No. 28. Constable No. 102, Bihari Ram Netam, was deputed to prepare a search panchnama without warrant and to inform the Railway Superintendent of Police, Raipur. Thereafter, Sub-Inspector K.C. Dey, along with his staff,



the independent witnesses, investigation kit, weighing scale and other necessary material, proceeded to the spot, i.e., the tin shed area of the railway station, to apprehend the suspect as per the description provided. At the spot, a person carrying a red air bag matching the description was identified and apprehended. Upon inquiry, he disclosed his identity as Natwar alias Kailash Das, son of Ganesh Das, aged about 26 years, resident of Village Bhanjuwa, Police Station Gogri, District Khagaria, Bihar. Thereafter, in the presence of independent witnesses, the Investigating Officer served a notice under Section 50 of the NDPS Act upon the accused, informing him of his legal right to be searched before a Gazetted Officer or Magistrate. The accused gave his written consent for search by the Investigating Officer himself. Prior to conducting the search, the Investigating Officer, his staff and the witnesses offered themselves for personal search to the accused; however, no incriminating substance was found on them.

Subsequently, upon search of the red air bag carried by the accused, a total of 8 kilograms of ganja (cannabis), consisting of flowering tops and seeds, was recovered, which was packed in three blue-green polythene packets and two khaki coloured polythene packets. During the course of proceedings, a weighing panchnama, physical verification panchnama and seizure memo were duly prepared on the spot. From the seized contraband, two representative samples of 50 grams each were drawn, marked as



A-1 and A-2, sealed and kept for forensic examination. A specimen seal and identification slip bearing signatures of the Investigating Officer and witnesses were also prepared and affixed. Upon finding prima facie evidence of commission of offence, the accused was arrested in accordance with law. Thereafter, the Investigating Officer returned to the police station along with the accused, seized contraband, samples, and witnesses. The seized material was deposited in the Malkhana (store room) for safe custody and necessary entries were made. An FIR was registered against the accused for the offence punishable under Section 20(b) of the NDPS Act. The sealed samples were sent to the Forensic Science Laboratory (FSL) for chemical examination. As per FSL Report (Exhibit P-29), both samples A-1 and A-2 tested positive for ganja. After completion of investigation, a charge-sheet was filed against the accused before the competent Court under Section 20(b) of the NDPS Act. The learned trial Court framed charge under Section 20(b)(ii)(B) of the NDPS Act, to which appellant abjured his guilt and claimed to be tried.

3. In order to prove its case, the prosecution examined as many as 9 witnesses. Statement of the accused/appellant was also recorded under Section 313 of Cr.P.C. wherein he denied all the incriminating circumstances appearing against him and pleaded innocence and false implication in the case. However, he did not adduce any evidence in his defence.



4. The learned trial Court, upon appreciation and evaluation of the oral as well as documentary evidence available on record, has convicted and sentenced the appellant as mentioned in para 1 of this judgment. Hence, this appeal.
5. Learned counsel for the appellant submits that the conviction recorded by the trial Court is not being assailed in the present appeal and the challenge is confined solely to the quantum of sentence. It is further submitted that the quantity of contraband ganja allegedly seized from the appellant is 8 kilograms; the incident pertains to the year 2012 and the appeal has remained pending since 2013. At the time of the incident, the appellant was approximately 26 years of age and is presently a middle-aged person. It is also contended that the appellant has already undergone incarceration for a period of about 1 year, 4 months and 25 days. In these circumstances, considering the quantity of contraband involved, the age of the appellant and the period already undergone, it is prayed that the sentence awarded be reduced to the period already undergone by the appellant.

Reliance has been placed on this Court's decision dated **13.04.2026** passed in **CRA No. 389 of 2026** in the matter of **Ajit Mali Vs. State of Chhattisgarh**.

6. *Per contra*, learned counsel for the respondent/State, while supporting the impugned judgment, submits that the learned Trial Court, upon a meticulous appreciation of both oral and documentary evidence, has rightly recorded the conviction and



imposed sentence upon the appellant under Section 20(b)(ii)(B) of the NDPS Act. It is, therefore, contended that the present appeal, being devoid of merit, deserves to be dismissed.

7. Heard counsel for the parties and perused the material placed on record.
8. Upon perusal of the material available on record and the testimonies of Constable Manoj Kumar Patel (P.W.-1), Head Constable Bhagwan Das Markandey (P.W.-2), Constable Bihari Ram Netam (P.W.-3), Sub-Inspector Arun Kumar Som (P.W.-4), Constable Dal Singh Thakur (P.W.-5) and Constable Devendra Shriwas, the involvement of the appellant in the offence in question stands duly established. Further, in view of the oral as well as documentary evidence on record, particularly the seizure of contraband Ganja from the possession of the accused/appellant, which was subsequently confirmed to be Ganja as per the FSL report (Ex. P-29), this Court finds no illegality, perversity or infirmity in the findings recorded by the learned Trial Court with regard to the conviction of the appellant under Section 20(b)(ii)(B) of the NDPS Act. Accordingly, the conviction so recorded is hereby affirmed.
9. This Court in the matter of **Ajit Mali** (supra) held in para 8 as under:-

“8. However, as regards sentence, in **Mohammad Giasuddin v. State of Andhra Pradesh (1977) 3 SCC 287**, Hon'ble Supreme Court while emphasizing the reformatory



approach has expounded the words expressed by George Bernard Shaw: "if you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries". Para-9 of the said judgment is quoted below:

"9. Western jurists and 'sociologists, from their own angle have struck a like note. Sir Samuel Romilly, critical of the brutal penalties in the then Britain, said in 1817:

"The laws of England are written in blood". Alfieri has suggested: 'society prepares the crime, the criminal commits it'. George Nicodotis, Director of Criminological Research Centre, Athens, Greece, maintains that 'Crime is the result of the lack of the right kind of education.' It is thus plain that crime is a pathological aberration, that the criminal can ordinarily be redeemed, that the State has to rehabilitate rather than avenge. The sub-culture that leads to anti-social behaviour has to be countered not by undue cruelty but by re-culturation. Therefore, the focus of interest in penology is the individual, and goal is salvaging him for society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today views sentencing as a process of reshaping a person who has deteriorated into criminality and the



modern community has a primary stake in the rehabilitation of the offender as a means of social defense. We, therefore consider a therapeutic, rather than an in 'terrorem' outlook, should prevail in our criminal courts, since brutal incarceration of the person merely produces laceration of his mind. In the words of George Bernard Shaw: 'If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries'. We may permit ourselves the liberty to quote from Judge Sir Geoffrey Streatfield : "If you are going to have anything to do with the criminal Courts, you should see for yourself the conditions under which prisoners serve their sentences."

10. Applying the principle laid down in ***Mohd. Giasuddin*** (*supra*), and having regard to the fact that the maximum sentence imposed upon the appellant is four years' rigorous imprisonment under Section 20(b)(ii)(B) of the NDPS Act; that the appellant has already undergone incarceration for a period of approximately one year, four months, and twenty-five days; and that there are no criminal antecedents attributed to him, this Court is of the considered opinion that, in the totality of the circumstances, the ends of justice would be adequately met if the substantive sentence of four years' rigorous imprisonment awarded by the



learned Trial Court is reduced to the period already undergone by the appellant.

11. Consequently, the appeal is partly allowed. While the conviction of the appellant under Section 20(b)(ii)(B) of the NDPS Act is hereby affirmed, the sentence imposed upon him is reduced to the period already undergone.
12. The appellant is reported to be on bail, therefore, his bail bond shall remain in operation for a period of six months as provided under 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/-
(Rajani Dubey)
JUDGE