



2026:CGHC:15327



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 63 of 2017**

Rakesh Manikpuri S/o Late Mohan Das Aged About 26 Years Caste Panika, R/o Purani Basti Korba, District Korba, Chhattisgarh., Chhattisgarh

... Appellant**versus**

State Of Chhattisgarh Through The Excise Circle, Korba, Chhattisgarh., Chhattisgarh

... Respondent(s)

For Appellant : Mr. Shreshtha Gupta, through legal aid

For Respondent(s) : Mr. Suresh Tandan, Panel Lawyer

Hon'ble Shri Justice Arvind Kumar Verma**Judgment on Board****02/04/2026**

1. Today when the matter is called out for hearing none appears, nor is any representation on behalf of the appellant inspite of the matter being called on three occasions. I, therefore, requested for assistance from a counsel of the High Court legal aid services com-



mittee, Mr. Shreshtha Gupta, Advocate has been nominated to assist the court.

2. I have gone through the judgment under appeal and the depositions of witnesses and exhibits assisted both by Advocate through the High Court Legal Services Committee and Learned State Counsel. In view of **(2014) SCC 222 (Surya Baksh Singh Vs. State of Uttar Pradesh)**, I do not consider it necessary to adjourn this case and issue fresh notice to the Appellant as his interest has been duly taken care of by nominating another counsel from the High Court Legal Services Committee.
3. This criminal appeal has been filed under Section 374 (2) of Cr.P.C., 1973 by the appellant against the judgment of conviction and order of sentence dated 06.02.2016 passed by the learned Special Judge (NDPS Act) Korba (C.G.), in Special (NDPS) Case No. 29/2014, whereby the appellant has been convicted and sentenced as follows:-

Convicted	Sentenced to
U/s 22(b) of N.D.P.S. Act, 1985	R.I. for 5 years with fine of Rs. 20,000/-, in default of payment of fine, additional R.I. for 2 years.

4. Case of the prosecution, in brief, is that on 19.04.2014, information was received from an informer in the Excise Control Room that at the old bus stand one Rakesh Manikpuri was selling brown sugar in Korba. Based on this information, a panchnama was prepared. Considering the possibility that the accused might escape



with the narcotic substance, due to urgency and lack of time, a search was conducted without a search warrant by the Assistant District Excise Officer along with staff. They reached the old bus stand and, as per the informer's indication, stopped the person and asked his name, to which he disclosed his name as Rakesh Manikpuri. Thereafter, independent witnesses were called, and in their presence, the accused was informed about the information received from the informer. A panchnama under Section 50 of the NDPS Act was prepared and the accused was informed about his right of search. Upon being asked, the accused stated that he had no objection if the search was conducted by the officer. The officers and staff conducted a personal search of the accused, but nothing illegal was found on his body, and a personal search memo was prepared. However, during further search, a polythene bag containing powder was recovered. A seizure panchnama was prepared. Upon testing, the powder was found to be diacetylmorphine (brown sugar), and a test memo was prepared. The seized powder was weighed on a certified weighing scale and found to be 25 grams, and a weighing memo was prepared. Out of this, 5 grams was taken as sample and divided into two packets of 2.5 grams each, sealed and marked as Sample A and B. Seal and signatures were affixed, and a sample seizure memo was prepared. The remaining seized powder was sealed and taken into custody under the Excise Department. It was found that the accused had committed an offence punishable under Section 22 of



the NDPS Act. He was informed of the grounds of arrest in writing in the presence of witnesses, and an arrest memo was prepared. Information of the arrest was given to his elder brother Kranti Kumar and sister-in-law Sheela Manikpuri. A site map of the place of occurrence was prepared. A case was registered against the accused as Crime No. 11/14. The seized property was sealed and kept in safe custody at Police Station Korba, and the accused was also kept in police custody. Samples A and B of the seized powder were sent to the Assistant Commissioner, Excise, for examination. On the orders of the Assistant Commissioner, the samples were sent to State Forensic Science Laboratory, Raipur. A receipt was obtained upon deposit. The report received from the laboratory confirmed that the samples contained diacetylmorphine (brown sugar). After completing the necessary investigation, the charge sheet was filed before the court on 13.05.2014. Charges under Section 22(b) of the NDPS Act were framed against the accused Rakesh Manikpuri. The charges were read over and explained to him, but he denied committing the offence. His statement was recorded accordingly. The accused was examined under Section 313 CrPC, wherein he denied the allegations against him.

5. The learned Special Judge (NDPS) Korba (C.G.), after appreciating oral and documentary evidence available on record vide judgment dated 06.12.2016, convicted the appellant for the offence punishable under Section 22(b) of the N.D.P.S. and sentenced him as mentioned in opening paragraph of this order.



6. The appellant was in jail from 19.04.2014 to 14.11.2014 (6 months 25 days) then from date of judgment, i.e., 06.12.2016 to 29.11.2018 (1 year 11 months)
7. 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.
8. 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 35 years and as he is facing criminal trial since 2016 and has already undergone half of the 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.
9. 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.



10. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

11. From perusal of the records, it transpires that on 19.04.2014, the Excise Department received secret information that Rakesh Manikpuri was selling brown sugar (diacetylmorphine) near the old bus stand at Korba. Acting on this tip, the Excise Officer and staff reached the spot and intercepted the accused. He disclosed his identity as Rakesh Manikpuri. Independent witnesses were called. A Section 50 NDPS Act notice was given before conducting the search. During the search, a polythene bag containing powder was recovered. The substance was identified as brown sugar (heroin). 25 grams of brown sugar was seized. Sample taken: 5 grams (2.5 g each in two packets). Proper sealing and panchnamas were prepared. The accused was arrested, informed of the grounds of arrest, and his relatives were notified. The seized samples were sent to the Forensic Science Laboratory, Raipur, which confirmed that the substance was diacetylmorphine (brown sugar). After investigation, a charge sheet was filed on 13.05.2014. After following the due processes, the learned Special Judge convicted the appellant under Section 22(b) of the NDPS Act, 1985 and sentenced to undergo RI for 5 years to appellant and fine of Rs. 20,000/-. 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 22(b) of the N.D.P.S.

12. 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 25 gm of diacetylmorphine (brown sugar) in violation of the provisions of the NDPS Act.
13. As regards the sentence awarded to the appellant. Considering the fact that the appellant is facing criminal trial since 2016, considering the age of the appellant at present and further considering the quantity of contraband seized from the possession of appellant i.e. 25 gm of diacetylmorphine (brown sugar), which is intermediate quantity and there is no previous criminal antecedents against him and further the appellant has undergone half of the jail sentence, 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 22(b). However, fine imposed by trial Court is maintained.
14. With the aforesaid observations, the criminal appeal is **allowed in part**. The appellant is held guilty of committing offence under Section 22(b) of NDPS Act and is convicted for the said offence. How-



ever, the sentence is reduced to the period already undergone by him. The appellant is 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.

15. 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