



2026:CGHC:10403



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 274 of 2017

1 - Smt. Fuleshwari W/o Bannudas Panika, Aged About 40 Years R/o Village Balampur, Kathrapara, Police Station Sitapur, District Surgjua, Chhattisgarh., Chhattisgarh

--- Appellant

versus

1 - State Of Chhattisgarh Through The Station House Officer, Police Station Batauli, District Surguja, Chhattisgarh., Chhattisgarh

--- Respondent(s)

CRA No. 279 of 2017

1 - Ashish Kumar S/o Inderpal @ Inder Sai, Aged About 27 Years R/o Village Kot, Bansapara, Police Station Sitapur, District Surguja, Chhattisgarh., Chhattisgarh

---Appellant

Versus

1 - State Of Chhattisgarh Through The Police Station Batauli, District Surguja, Chhattisgarh., Chhattisgarh

. Respondent/State

For Respective Appellants	: Mr. J. K. Saxena, Advocate, Advocate and Ms. Anuska Tripathi, Advocate on behalf of Mr. Mahesh Pandey, Advocate
For State	: Mr. Rishi Raj Pithwa, Dy. G.A.

**Hon'ble Shri Justice Arvind Kumar Verma****Judgement on Board****27.02.2026**

1. As both these appeals arise out of the impugned judgment of conviction and order of sentence dated 10.02.2017 passed by learned Special Judge (NDPS Act) Amikapur, in Special Criminal Case No. 26/2012, they are heard analogously and being disposed of by this common judgment. The trial court has convicted and sentenced the appellants as under :-

Conviction	Sentence
U/S 20 (b) (ii) (B) of NDPS Act	R.I for 03 years each with fine amount of Rs. 10,000/- each, in default of payment of fine, to undergo further R.I. for six months each.

2. As per case of the prosecution, on 28.10.2012, the Sub-Inspector namely Kailash Mirre has received a secret information through the informant that contraband article ganja was kept illegally by the accused. 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 and raided the Motorcycle bearing Registration No. C.G.-15-CC-4620, being driven by the accused- Ashish Kumar and the accused- Fuleshwari was pillion rider. In compliance of Section 50 of the NDPS Act he gave notice to the appellants and obtained their consent for search and thereafter the police recovered from the accused total 4.500 kg of contraband article substance like ganja.. 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 appellants in the crime in question, prosecution has examined as many as 08 witnesses. In the statement of the appellants recorded under Section 313 Cr.P.C., the appellants pleaded their innocence and false implication in the case.
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/appellants as mentioned in inaugural para of this judgment.
5. Learned counsel for the appellants submits that they do not want to press this appeal on merits and confine his arguments to the sentence part thereof only. Further, they submit that the appellants at present are aged about 47 years and 36 years respectively and they are facing criminal trial since 2012 and have already undergone more than two months' jail sentence awarded by the trial Court in NDPS Case No. 26/2012. There is also no previous criminal antecedents against the appellants. Therefore, the jail sentence awarded to the appellants may be reduced to the period already undergone by them.
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 appellants. So, there is no scope for interference by this Court. These appeals being without any merit are 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 on 28.10.2012 Station House Officer received information that appellants were carrying Ganja in the motorcycle. After receiving the above said information the concerned officer along with his staff reached the spot where they seized 4.500 kg ganja from the appellants and thereafter a charge sheet has been filed against the present appellants. After following the due processes, charge-sheet was submitted before the learned Special Judge who convicted the appellant under Section 20 (b)(ii)(B) of the NDPS Act, 1985 and sentenced them to undergo Rigorous Imprisonment for 03 years and fine of Rs. 10,000/-. 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 appellants 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 their possession, therefore, it is proved that the appellants possessed 4.500 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 2012 and nearly 14 years have rolled by since then.

The appellants are now aged about 47 years and 36 years respectively and they are facing criminal trial since 2012 and out of 03 years of jail sentence, the appellants have already undergone more than two months' of jail sentence and they did not misuse the liberty so granted to them, while being on bail, however they have no criminal antecedents and they are facing the *lis* since 2012 i.e., for about more than 14 years and no useful purpose would be served in again sending them to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon them is reduced to the period already undergone by them.

11. *Ex consequenti*, both the appeals are **partly allowed**. Conviction of the appellants under the aforementioned section is affirmed and they are sentenced to the period already undergone by them. However, the fine amount imposed by the Trial Court shall remain intact. The impugned judgment stands modified to the above extent. They be released forthwith if not required in any other case.
12. The appellants are reported to be on bail, therefore, their 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