



2026:CGHC:13637

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRA No. 590 of 2017**

- Heeradhar Yadav S/o Pareshwar Yadav Aged About 29 Years R/o Village Kukargaon, Hardi Jhariya, Police Station Bagbahar, District Jashpur, Chhattisgarh., Chhattisgarh **... Appellant(s)**

versus

- State Of Chhattisgarh Through Station House Officer, Police Station Sitapur, District Surguja, Chhattisgarh., Chhattisgarh **---Respondent**

For Appellant	:	Mr. Atul Kumar Gavel Advocate, on behalf of Mr. Ajit Kumar Yadav, Advocate
For Respondent	:	Mr. Vivek Mishra, P.L.

Hon'ble Shri Justice Arvind Kumar Verma,**Judgment on Board****23.03.2026**

1. This criminal appeal has been filed under Section 374 (2) of Cr.P.C. by the appellant against the judgment of conviction and order of sentence dated 24.03.2017 passed by the learned Special Judge (N.D.P.S. Act) Ambikapur (C.G.) in Special Case No. 04/2014, whereby the appellant has been convicted and sentenced as follows:-



Convicted under Sections	Sentenced to
20(B)(ii-B) of N.D.P.S. Act, 1985	R.I. for 5 year with fine of Rs. 25,000/- and in default of payment of fine, additional R.I. for 1 year.

2. The prosecution case, in brief, is that Lokeshwar Prasad was posted as Sub-Inspector at Police Station Sitapur from the year 2010 to May, 2015. On 12.01.2014, he received confidential information from an informant that an unknown person was coming from the side of Pathalgaon towards Sitapur carrying cannabis (ganja) in a plastic sack for the purpose of sale. Acting upon the said information, a memorandum of secret information was prepared in the presence of independent witnesses, namely Manbodh Kashyap and Hasim Iraki, who were summoned to the police station by issuing notices. The said information was reduced into writing vide memo and was forwarded to the Sub-Divisional Officer of Police, Sitapur through Constable Teejram. Thereafter, the Investigating Officer, along with police staff and the witnesses, proceeded to the spot with necessary materials such as seal, sealing wax, and other articles. Upon reaching Radhapur barrier, a blockade was set up. During the course of checking, one person was intercepted who was coming from the direction of Pathalgaon on a motorcycle. Upon being questioned, he disclosed his name as Hiradhar. The accused was apprised of the information received against him and was informed of his legal right under Section 50 of the NDPS Act to be searched before a Magistrate or a Gazetted Officer. The accused, in his own handwriting, gave consent to be searched by the Investi-



gating Officer. Prior to conducting the search of the accused, he was given an opportunity to search the Investigating Officer, police staff, and the witnesses, and upon such search, no incriminating article was found. A memorandum to this effect was prepared. Thereafter, the personal search of the accused was conducted, during which a plastic sack containing a substance resembling ganja was recovered from his possession. A search memo and seizure memo were prepared accordingly. The recovered substance was examined by sight, smell, touch, and by burning, and was found to be ganja. A memorandum regarding identification of the substance was prepared. For the purpose of weighing the contraband, one Naresh Kumar Gupta was called at the spot along with an electronic weighing machine. After verification of the weighing instrument, the seized contraband was weighed in the presence of witnesses and was found to be 5 kilograms. A weighing memo and certificate were prepared accordingly. The seized ganja was then homogenized, and three samples of 50 grams each were drawn separately. The remaining bulk quantity of 4 kg 850 grams and the samples were duly sealed. One Hero Honda motorcycle bearing registration No. CG-14 B-0833 was also seized. A sample seal memo was prepared. The accused was served with a notice under Section 91 of the Code of Criminal Procedure to produce valid documents or permit for possession of the contraband and documents relating to the motorcycle, but he failed to produce any such documents and gave a written reply to that effect. A spot map was prepared. Thereafter, the accused was arrested and brought to Police Station Sitapur, where an FIR bearing Crime No. 10/2014 was reg-



istered against him for the offence punishable under Section 20(b) of the NDPS Act.

3. The learned Special Judge (N.D.P.S.), Act, Ambikapur (C.G.), after appreciating oral and documentary evidence available on record vide Judgment dated 24.03.2017, 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.
4. The appellant was in custody from 12.01.2014 to 19.05.2014 (4 months and 7 days) and thereafter he was in jail from 24.03.2017 to 17.07.2018 (1 year, 3 months and 24 days). Total jail period 1 year, 7 months and 31 days).
5. Learned counsel for the appellant would submit that the appellant is innocent persons and has been falsely implicated in the aforesaid 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.
6. Learned counsel for the appellant further submits that he does not want to press this appeal on merits and confine his arguments to the sentence part thereof only. Further, learned counsel for appellant submits that the appellant at present is aged about 31 years and as he is facing criminal trial since 2014 and the appellant has already undergone more than 1 year, 7 months and 31 days awarded by the trial Court. There is also no previous criminal an-



tecedents against the appellant. Therefore, the jail sentence awarded to the appellant may be reduced to the period already undergone by him. Learned counsel for appellant placed his reliance upon the decisions of the Coordinate Bench of this High Court in the matters of **Ajay Kumar Sarthi V. State of Chhattisgarh** in CRA No. 243 of 2022, **Pritam Patel Vs. State of Chhattisgarh** in CRA No. 903 of 2015 and **Yogendra Singh Markam Vs. State of Chhattisgarh** in CRA No. 1760 of 2022, the Cor-ordinate Bench has reduced the sentence to the period already undergone, and therefore, similar relief may be extended to the appellants herein as well.

7. Learned State Counsel submits that the Trial Court has rightly convicted and sentenced the appellant, in which no interference is called for.
8. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
9. From perusal of the records, it transpires that Lokeshwar Prasad was posted as Sub-Inspector at Police Station Sitapur from the year 2010 to May, 2015. On 12.01.2014, he received confidential information from an informant that an unknown person was coming from the side of Pathalgaon towards Sitapur carrying cannabis (ganja) in a plastic sack for the purpose of sale. Acting upon the said information, a memorandum of secret information was prepared in the presence of independent witnesses, namely Manbodh Kashyap and Hasim Iraki, who were summoned to the police station by issuing notices. The said information was reduced into writ-



ing vide memo and was forwarded to the Sub-Divisional Officer of Police, Sitapur through Constable Teejram. Thereafter, the Investigating Officer, along with police staff and the witnesses, proceeded to the spot with necessary materials such as seal, sealing wax, and other articles. Upon reaching Radhapur barrier, a blockade was set up. During the course of checking, one person was intercepted who was coming from the direction of Pathalgaon on a motorcycle. Upon being questioned, he disclosed his name as Hiradhar. The accused was apprised of the information received against him and was informed of his legal right under Section 50 of the NDPS Act to be searched before a Magistrate or a Gazetted Officer. The accused, in his own handwriting, gave consent to be searched by the Investigating Officer. Prior to conducting the search of the accused, he was given an opportunity to search the Investigating Officer, police staff, and the witnesses, and upon such search, no incriminating article was found. A memorandum to this effect was prepared. Thereafter, the personal search of the accused was conducted, during which a plastic sack containing a substance resembling ganja was recovered from his possession. A search memo and seizure memo were prepared accordingly. The recovered substance was examined by sight, smell, touch, and by burning, and was found to be ganja. A memorandum regarding identification of the substance was prepared. For the purpose of weighing the contraband, one Naresh Kumar Gupta was called at the spot along with an electronic weighing machine. After verification of the weighing instrument, the seized contraband was weighed in the presence of witnesses and was found to be 5 kilograms. A weighing memo and



certificate were prepared accordingly. The seized ganja was then homogenized, and three samples of 50 grams each were drawn separately. The remaining bulk quantity of 4 kg 850 grams and the samples were duly sealed. One Hero Honda motorcycle bearing registration No. CG-14 B-0833 was also seized. A sample seal memo was prepared. The accused was served with a notice under Section 91 of the Code of Criminal Procedure to produce valid documents or permit for possession of the contraband and documents relating to the motorcycle, but he failed to produce any such documents and gave a written reply to that effect. A spot map was prepared. Thereafter, the accused was arrested and brought to Police Station Sitapur, where an FIR bearing Crime No. 10/2014 was registered against him for the offence punishable under Section 20(b) of the NDPS Act.

10. From perusal of the case it appears that Investigation Officer has followed the mandatory provisions of Section 42(1) 42(2) of the NDPS Act 1985 and after giving information to the Superior Gazette Officer, he recovered ganja from the exclusive possession of the accused and the IO has also followed the norms of 52A, 55 and 57 of the NDPS Act. The IO has taken samples of 50:50 grams of ganja and sent for FSL test and FSL report is positive. The trial Court after considering the material available on record and evidence of the prosecution witnesses, convicted the appellant for the offence under Section 20(B)(ii-B) of the N.D.P.S. and sentenced to undergo RI for 5 years to appellant and fine of Rs. 25000/-. 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 20(B)(ii-B) of the N.D.P.S. Therefore, the conviction of the appellant is maintained.

11. As regards the sentence awarded to them. Considering the fact that the appellant is facing criminal trial since 2014 and thereafter more than 12 years has been elapsed, considering the age of the appellant at present and further considering the quantity of contraband seized from the possession of the appellant i.e. 5kg contraband(ganja), which is small quantity and there is no previous criminal antecedents against him and further the appellant has already undergone 1 year, 7 months and 31 days of jail sentence awarded by the trial Court and bail was also granted to him by this Court on 17.07.2018, there would be no useful purpose to send the appellant in jail as he has already suffered undergone sentence and also agony of criminal trial for so many years, that meets the ends of justice. So this Court finds it appropriate to reduce the sentence from RI for 5 years under Section 20(B)(ii-B) of the N.D.P.S. to the period already undergone by the appellant of jail sentence. However, fine amount is maintained.
12. With the aforesaid observations, the criminal appeal is **partly allowed** to the extent indicated hereinabove.
13. 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