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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1133 of 2018

Bhushan Chandrakar S/o Late Ramji Chandrakar Aged About 56 Years
R/o- Village Dandesara Police Station Kurud, Tahsil Kurud, District-
Dhamtari, Chhattisgarh., District : Dhamtari, Chhattisgarh

--- Appellant

versus

State Of Chhattisgarh Through- Station House Officer, Police Station-
Ajuni, District- Dhamtari, Chhattisgarh., District : Dhamtari, Chhattisgarh

--- Respondent(s)

For Appellant : Mr. Anil Gulati, Advocate

For Respondent(s) : Mr. Rajkumar Sahu, Panel Lawyer

CRA No. 1320 of 2018

Punitram Netam S/o Late Shri Ramdayal Netam Aged About 35 Years
R/o- Village- Ratnabandha Basti, Thana- City Kotwali Dhamtari, Civil
And Revenue District- Dhamtari, Chhattisgarh., District : Dhamtari,
Chhattisgarh

---Appellant

Versus

State Of Chhattisgarh Through- The District Magistrate Dhamtari,
District- Dhamtari, Chhattisgarh., District : Dhamtari, Chhattisgarh

--- Respondent(s)

For Appellant : Mr. Sunil Sahu, Advocate

For Respondent(s) : Mr. Rajkumar Sahu, Panel Lawyer

**Hon'ble Shri Justice Arvind Kumar Verma****Judgment on Board****19/03/2026**

1. Since both the appeals arise out of a common judgment, they are being heard together and are disposed of by this common judgment.
2. These criminal appeals have been filed under Section 374 (2) of Cr.P.C., 1973 by the appellants against the judgment of conviction and order of sentence dated 17.07.2018 passed by the learned Special Judge (NDPS Act, 1985) Dhamtari (C.G.), in Special Criminal Case No. 174/2017, whereby the appellants have been convicted and sentenced as follows:-

Convicted	Sentenced to
U/s 20(b)(ii)(B) of N.D.P.S. Act, 1985	R.I. for 5 years with fine of Rs. 25,000/-, in default of payment of fine, additional R.I. for 3 months to both the appellants.

3. Case of the prosecution in brief, is that, on 13.06.2017, A.S.I. Ramesh Sahu, along with police staff, while on patrol duty near Sehradabari Naka, received information that a person was carrying ganja for illegal sale. After recording the information, informing superior officers, and summoning independent witnesses, a search was conducted near NH-30, where the accused Puneetram Netam was apprehended. After compliance with Section 50 of the NDPS Act and other formalities, a bag in his possession was searched, from which a substance resembling ganja was re-



covered. On identification and weighment, the contraband was found to be 5.300 kg, from which samples were drawn, sealed, and the remaining quantity was seized. The accused failed to produce any valid documents regarding possession of the contraband and disclosed that it was procured from Odisha for sale. Thereafter, the accused was arrested, necessary panchnamas and documents were prepared, and the seized property along with the accused was taken to the police station, where a formal offence was registered and investigation was carried out.

4. Charges were framed against the accused under Section 20(b)(ii) (B) of the NDPS Act. The accused denied committing the offence. In his statement under Section 313 CrPC, the accused claimed innocence and stated that he had been falsely implicated.
5. The learned Special Judge (NDPS Act) Dhamtari (C.G.), after appreciating oral and documentary evidence available on record vide judgment dated 17.07.2018, convicted the appellants for the offence punishable under Section 20(b)(ii)(B) of the N.D.P.S. and sentenced them as mentioned in opening paragraph of this order.
6. The appellant- Puneet Ram Netam was in jail from 13.06.2017 to 12.04.2018 and from 17.07.2018 to 01.10.2018 and the appellant- Bhushan Chandrakar was in jail from 14.06.2017 to 29.11.2017 and from 17.07.2018 to 01.10.2018.
7. Learned counsel for the appellants would submit that the appellants are innocent person and have been falsely implicated in the aforesaid case and the mandatory provisions have not been fol-



lowed 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 appellants 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 appellants are facing criminal trial since 2017 and have already undergone around 1 year of jail sentence awarded by the trial Court. 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 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 13.06.2017, A.S.I. Ramesh Sahu, along with police staff, while on patrol duty near Sehradabari Naka, received information that a person was carrying ganja for illegal sale. After recording the information, informing superior officers, and summoning independent witnesses,



a search was conducted near NH-30, where the accused Puneetram Netam was apprehended. After compliance with Section 50 of the NDPS Act and other formalities, a bag in his possession was searched, from which a substance resembling ganja was recovered. On identification and weighment, the contraband was found to be 5.300 kg, from which samples were drawn, sealed, and the remaining quantity was seized. The accused failed to produce any valid documents regarding possession of the contraband and disclosed that it was procured from Odisha for sale. Thereafter, the accused was arrested, necessary panchnamas and documents were prepared, and the seized property along with the accused was taken to the police station, where a formal offence was registered and investigation was carried out. After following the due processes, the learned Special Judge convicted the appellant under Section 20(b)(ii)(B) of the NDPS Act, 1985 and sentenced to undergo RI for 5 years and fine of Rs. 25,000/- to each appellant. 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 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 5 kg 300 gm of ganja 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 2012, considering the age of the appellant at present and further considering the quantity of contraband seized from the possession of appellant i.e. 5 kg 300 gm of contraband(ganja), which is intermediate quantity and there is no previous criminal antecedents against them and further the appellant- Puneet Ram Netam was in jail from 13.06.2017 to 12.04.2018 and from 17.07.2018 to 01.10.2018 and the appellant- Bhushan Chandrakar was in jail from 14.06.2017 to 29.11.2017 and from 17.07.2018 to 01.10.2018, 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 20(b)(ii)(B). However, fine imposed by trial Court is maintained.

14. With the aforesaid observations, the criminal appeal is **allowed in part**. The appellants are held guilty of committing offence under Section 20(b)(ii)(B) of NDPS Act and is convicted for the said offence. However, the sentence is reduced to the period already undergone by them. The appellants are reported to be on bail. Surety and personal bond earlier furnished at the time of suspension of



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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