



2026:CGHC:21392



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HIGH COURT OF CHHATTISGARH AT BILASPUR**Reserved on 15.04.2026****Pronounced on 07.05.2026****ACQA No. 228 of 2021**

State Of Chhattisgarh Through The Police Station, Bagicha, District Jashpur
Chhattisgarh.

... Appellant**versus**

Abhimanyu Yadav S/o Rameshwar Yadav, Aged About 50 Years, R/o
Khandadand, Police Station Bagicha, District Jashpur Chhattisgarh

... Respondent

For Appellant/State	:	Shri Atanu Ghosh, Dy.Govt. Advocate.
For Respondent	:	Shri Harish Khuntiya, Advocate.

Single Bench: Hon'ble Shri Sanjay S. Agrawal, J**C A V Judgment**

1. This appeal has been preferred by the appellant/State under Section 378 of the Code of Criminal Procedure, 1973, questioning the legality and propriety of the judgment dated 16/08/2017 passed by the Special Judge (N.D.P.S. Act), Jashpur (C.G.) in Special Criminal Case No.03/2017, whereby, the respondent has been acquitted with regard to the offence punishable under Section 20(b)(ii)(B) of the Narcotics Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the Act, 1985').
2. Briefly stated the facts of the case are that on 01/02/2017, the Sub-Inspector- Ashish Goutam of Police Station- Bagicha, District Jashpur



received a secret information that in the village Khatadand, a person has kept contraband article (Ganja) illegally in the house for sale. Based upon the said information, he called Sanjay Goswami and Avinash Singh, while issuing notice to them under Section 160 Cr.P.C. and prepared a *Mukhabir Panchanama* and thereafter, furnished the information to the higher authorities through the Constable-Ruben Tigga and approached the house of the respondent/accused, after following the due procedure of law, where the respondent/accused was found to be present and notice required under Section 50 of the Act, 1985 was given to him informing his legal right either to be searched in presence of the Magistrate or any of the Gazetted Officer, who in turn, has consented to be searched by the police officials and after obtaining his consent, house of him was searched. During the search proceedings, three packets of ganja kept in yellow and white bags were recovered and the *Baramdagi Panchanama* (Ex.P-10) was accordingly, prepared. The seized articles were identified as “Ganja” by smelling it and for weighing the same, one Arun Singh was called with a weighing machine, who in turn, has weighed the same, where 7 kg of “Ganja” was found and that upon mixing the same, the *Samras Panchanama* was prepared vide Ex.P-14 at 16.45 hrs. and thereafter, the sampling was done and two packets containing 100-100 grams of ganja were prepared vide Ex.P-15 at 16.50 hours in presence of those said witnesses and was deposited in the *Malkhana* of Police Station Bagicha, District Jashpur through the Constable Neelam Sai Paikra and the acknowledgment to this effect was given by *Moharrir* – Manoj Bhagat (PW-9) vide *Japti Mal Supurdagi Panchnama* (Ex.P-36) and entire information was furnished by the Investigating Officer to the Sub-



Divisional Officer (Police), Bagicha, District Jashpur on 01/02/2017

vide Ex.P-37. The sampling packets containing ganja having 100-100 grams were sent for chemical examination through the Constable Neelam Sai Paikra and acknowledgment to this effect was made on 06/02/2017 vide Ex.P-38 and in the report Ex.P-39, the alleged sample was found to be "Ganja" and after completion of due investigation, the charge-sheet was submitted against the respondent/accused and based upon the materials, he was charge-sheeted for the offence punishable under Section 20(b)(ii)(B) of the Act, 1985, which was denied by him and claimed to be tried.

3. In order to bring home the guilt of the respondent/accused the prosecution has examined as many as 9 witnesses and exhibited 42 documents, while none was examined by the respondent/accused in his defence.
4. The trial Court, after evaluating the evidence led by the prosecution, arrived at a conclusion that neither the alleged contraband article "Ganja" was found to be recovered from the exclusive possession of the respondent/accused, nor the prosecution has established the fact that the alleged sample of contraband article (ganja) sent for chemical examination, was taken out of the alleged recovery, i.e. *Baramdagi Panchnama* (Ex.P-10). In consequence, he has been acquitted from the commission of the alleged crime and, being aggrieved, the instant appeal has been preferred.
5. Learned counsel appearing for the appellant/State submits that the finding of the trial Court holding that the respondent/accused is innocent, is apparently contrary to the materials available on record,



inasmuch as, the evidence led by the prosecution has not been scanned in its true perspective and, thereby erred in acquitting him as such.

6. On the other hand, learned counsel appearing for the respondent/accused has supported the impugned judgment.
7. I have heard learned counsel appearing for the parties and perused the entire record.
8. The questions, which arise for determination are:-
 - (i) Whether the finding of the trial Court holding that the alleged contraband article "Ganja" was not recovered from the exclusive possession of the respondent/accused, is perverse?
 - (ii) Whether the finding of the trial Court holding that the alleged sample of ganja in two packets containing 100-100 grams were not forming the part of the alleged article seized vide *Baramadgi Panchnama* (Ex.P-10), is perverse?
9. Perusal of the record would show that based upon the secret information, search of the house of the respondent/accused was made on 01/02/2017 in presence of witnesses, namely, Sanjay Goswami and Avinash Singh, which led to recovery of the contraband article "Ganja" from the verandah of the respondent's house in one yellow-white bag containing three bundles, while one in white colour plastic bag, as evidenced by the *Baramadgi Panchnama* (Ex.P-10). On weighing the recovered material made vide Ex.P-13 by one Arun Singh, it emerged that the respondent/accused was in possession of 7 Kg. of "Ganja", which recovered in two bags as evidenced by the said *Baramadgi*



Panchnama (Ex.P-10). It appears further that after mixing the contraband article, “Ganja” recovered in two bags, a *Samras Panchnama* (Ex.P-14) was prepared on 01/02/2017 at 16.45 hours and, then having taken the samples of 100-100 grams ganja, two separate packets were prepared as evidenced by *Toul Panchnama*, vide Ex.P-15 at 16.50 hours. It is, however, to be seen at this juncture that though two sample packets of ganja were prepared as such, but were, however, not found to be sealed, as evidenced by the seizure memo (Ex.P-16), and even the Investigating Officer-Ashish Kumar Goutam (PW-7) has admitted the said fact at para 25 of his testimony. Further, the *Japti Mal Supurdagi Panchnama* (Ex.P-36) would reveal the fact that 7 Kg. of ganja and the sample packets of ganja having 100-100 grams were deposited in the *Malkhana* of Police Station Bagicha. It is, however, to be noted that when 7 Kg. of “Ganja” was seized and, out of it, 100-100 grams of ganja has been taken for sampling, then how it could be shown to be deposited as such in the said *Malkhana* and no explanation to this effect has been offered by the prosecution, therefore, the alleged deposition vide Ex.P-36 appears to be highly doubtful.

10. It is to be seen further, as revealed from para-12 of the testimony of the Investigating Officer-Ashish Kumar Goutam (PW-7) that the alleged sample of ganja handed over to the Constable No.54, namely, Neelam Sai Paikra (PW-8) for its deposition to the Regional Science Laboratory for chemical examination, was marked as “A” and “B”, but he (Neelam Sai Paikra), however, was unable to state that the alleged sample packets, which he carried, was marked as “A” and “B”, as evidenced from para-3 of his testimony. Even, according to the statement of Head



Constable, namely, Manoj Bhagat (PW-9), who was working as *Mal Moharrir* of Police Station Bagicha, was unable to state that it was marked as “A” and “B” or not at the time of its deposition, coupled with admission of the Investigating Officer to this effect as revealed from para 25 of his testimony. The alleged sample packets sent for chemical examination were, thus, not found to be “sealed”.

11. It is to be noted here further that when the alleged sampling packets were deposited by said Neelam Sai Paikra before the Regional Science Laboratory at Ambikapur for chemical examination, it was, however, not found to be containing the “sample seal” as revealed from the acknowledgment dated 06/02/2017 (Ex.P-38) made by the said Laboratory. But, surprisingly, it has been shown to be of sampling seal, like “P.S. Bagicha” in the report (Ex.P-39) dated 21/02/2017 furnished by the said Laboratory.
12. In view of such material discrepancies, it is difficult to hold that the alleged contraband article “Ganja” seized from the verandah of the house of the respondent/accused was sent for its chemical examination and, the trial Court has, therefore, rightly held that the provision prescribed under Section 55 of the Act, 1985 was not followed in its strict sense.
13. Moreover, according to the prosecution, the alleged contraband article was recovered from the verandah of the house of the respondent/accused, which is, however, found to be a common place, as evidenced by the statement of Investigating Officer Ashish Kumar Goutam (PW-7) and, in the said house, he (respondent/accused) is residing along with his wife, daughter, daughter-in-law and the adult



son and was being utilized for his family members. Therefore, it cannot be said that the alleged contraband article was seized from the exclusive possession of the respondent/accused and the trial Court has, therefore, not committed any illegality in holding that it was not recovered from his exclusive possession as well.

14. In view of the aforesaid background, I do not find any infirmity in the impugned judgment dated 16/08/2017 passed by the Special Judge (N.D.P.S. Act), Jashpur (C.G.) in Special Criminal Case No.03/2017, acquitting the respondent/accused from the commission of offence punishable under Section 20(b)(ii)(B) of the Act, 1985, so as to call for any interference in this appeal.
15. The appeal is, accordingly, dismissed.

SD/-
(Sanjay S. Agrawal)
JUDGE