



2026:CGHC:9731



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1405 of 2018

1 - Ankit Kesharwani S/o Shri Chirounji Lal Kesharwani Aged About 20 Years R/o Village- Bhadwa, P.S.- Kokhraj, Revenue And Civil District- Koshambi, Uttar Pradesh.

2 - Shivkumar Yadav S/o Rambhanvar Aged About 22 Years R/o Village- Kakoha Debhita, P.S.- Kokhraj, Revenue And Civil District- Koshambi, Uttar Pradesh.

...Appellants.

versus

State Of Chhattisgarh Through District Magistrate, Raipur, District- Raipur, Chhattisgarh.

---- Respondent

For the Appellant : Mr. Ravindra Sharma, Advocate (Legal Aid)

For the State/Respondent : Mr. Rajkumar Sahu, PL.

Hon'ble Shri Arvind Kumar Verma, Judge

Judgment on Board

24.02.2026

1. Challenge in the criminal appeal is to the impugned judgment of conviction and sentence dated 31st August 2018 passed by



learned Special Judge, (NDPS), Raipur, (CG) in Special Case No.25/2017, whereby appellants stand convicted and sentenced as under: -

Appellant No.1

<u>Conviction</u>	<u>Sentence</u>
Under Section 20 (ii) (B) of the NDPS Act	R.I. for 02 years and fine of Rs.10,000/-, in default of payment of fine, additional R.I. for 03 months.

Appellant No.2

<u>Conviction</u>	<u>Sentence</u>
Under Section 20 (ii) (B) of the NDPS Act	R.I. for 06 months and fine of Rs.5,000/-, in default of payment of fine, additional R.I. for 01 month.

2. The present appeal was filed in the year 2018 and the appellants were granted bail by this Court vide order dated 05.10.2018.
3. When the case is taken up for hearing, no one appeared on behalf of appellants to press this appeal, therefore, I requested for assistance from a Counsel of the High Court Legal Services Committee. Mr. Ravindra Sharma, Advocate is nominated to assist the Court on behalf of the appellants.



4. I have gone through the judgment under appeal and the depositions of witnesses and exhibits assisted by Mr. Ravindra Sharma, Advocate and learned State Counsel. In view of decision of hon'ble Supreme Court in case of **Surya Baksh Singh v. State of Uttar Pradesh, (2014) 14 SCC 222**, I do not consider it necessary to adjourn this case and issue fresh notice to the appellants as their interest has been duly taken care of by nominating another Counsel from the High Court Legal Services Committee.
5. Case of prosecution, in brief, is that on 13.12.2016, based on secret information, the Police intercepted the three persons (including present appellants) near Dena Bank, Jawahar Nagar, Road, Raipur and during search seized/recovered total 11 kg of illicit contraband (Ganja) from them, which they kept in the bag, (05 kg from appellant No.1/Ankit Kesharwani, 3.500 kg from Pawan Kumar Saroj/co-accused and 2.500 kg from appellant No.2/Shivkumar Yadav). On the basis of seizure, they were arrested under the NDPS Act. After completion of other necessary formalities, Police returned to the Police Station and deposited the seized contraband (ganja) in Malkhana and lodged FIR against the appellants-accused.
6. After completion of investigation, charge-sheet was filed and trial Court framed the charges against the appellants for



offence under the Act of NDPS Act.

7. In order to prove guilt of appellants, prosecution examined total 07 witnesses and their statements were recorded. However, no defence witnesses was examined. Statement of appellants (accused) were recorded under Section 313 CrPC in which they pleaded innocence and false implication.
8. After completion of trial, trial Court convicted and sentenced the appellants as mentioned in paragraph -1 of this judgment. Hence, this appeal.
9. Learned counsel for the appellants submits that he is not pressing this appeal on merits and confining his arguments to the quantum of sentence only. He contended that quantity of contraband (ganja) seized from the present appellants is an intermediate quantity. Appellant No.1 has already served about 09 months and 05 days of jail sentence, whereas appellant No.2 has served about 03 months and 09 days of jail sentence; they do not have any previous criminal incident, hence, it is prayed that sentence awarded to appellants be reduced to the period already undergone by them.
10. On the other hand, learned State Counsel opposing the prayer of learned counsel for appellants, would submit that the trial Court has rightly convicted and sentenced the appellants and therefore, the impugned judgment does not call for any



interference.

11. I have heard learned counsel for the parties and perused the record of the trial Court including the impugned judgment.
12. Though learned counsel for the appellants has not challenged conviction of appellants and restricted his prayer only with regard to reduction of sentence as undergone, but still this Court deems it appropriate to examine the impugned judgment of the Court below. This Court has meticulously perused impugned judgment and evidence on record.
13. Perusal of impugned judgment reveals that trial Court has discussed about the compliance of mandatory provisions of the NDPS Act and held that all the mandatory provisions under the NDPS Act had been complied with and after elaborately considering evidence of each individual material witness has observed that prosecution has proved its case beyond reasonable doubt against appellant herein and that being the position, this Court is the opinion that the trial Court has not committed any mistake in arriving at a conclusion that appellant is guilty for the aforementioned offence.
14. As regards quantum of sentence, considering total quantity of contraband (ganja) seized from the present appellants, i.e ,7.500 kg, period of sentence imposed by trial Court upon the appellants, further the fact that appellant No.1 has already



served about 09 months and 05 days of jail sentence, whereas appellant No.2 has served about 03 months and 09 days of jail sentence; they do not have any previous antecedents in similar nature, incident is of the year 2016 i.e. more than 09 years have elapsed, this Court is of the opinion that no useful purpose would be served in sending the appellants to jail at this point of time for undergoing remaining period of sentence and ends of justice would be met if the sentence awarded to appellants is reduced to the period already undergone by them.

15. In the result, the appeal is allowed in part. Conviction of appellants under Section 20(ii)(B) of the NDPS Act is hereby affirmed; sentence imposed upon the appellants under aforesaid Section is hereby modified and reduced to the period already undergone by them. However fine amount imposed upon the appellants shall remain intact.

16. Record of trial Court alongwith copy of this judgment be sent back immediately to trial Court concerned for compliance and necessary action.

Sd/-
(Arvind Kumar Verma)
JUDGE

J/-