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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1163 of 2016

Omprakash Dhritlahre S/o Bahorik Dhritlahre Aged About 22 Years R/o
Dattan Chowki, Lawan, Thana Kasdol, District Baloda Bazar, Bhatapara
Chhattisgarh , Chhattisgarh

... Appellant

versus

State Of Chhattisgarh Through Aarakshi Kendra, Raja Devri, Chowki,
Baya District Balodabazar, Bhatapara Chhattisgarh , Chhattisgarh

... Respondent(s)

For Appellant : Mr. Anumeh Shrivastava, Advocate

For Respondent(s) : Ms. Aveline Juneja Gambhir, Panel Lawyer

Hon'ble Shri Justice Arvind Kumar Verma

Judgment on Board

20/03/2026

1. This criminal appeal has been filed under Section 374 (2) of Cr.P.C., 1973 by the appellant against the judgment of conviction and order of sentence dated 03.09.2016 passed by the learned Special Judge (NDPS) and First Additional Sessions Judge,



Balodabazar, District- Balodabazar (C.G.), in Special Criminal (NDPS) Case No. 10/2015, whereby the appellant has 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 3 years with fine of Rs. 10,000/-, in default of payment of fine, additional S.I. for 6 months.

2. Case of the prosecution, in brief, is that the SDOP, Balodabazar was out of headquarters, information was conveyed to him over mobile and, upon receiving instructions, the police party proceeded and set up a check post at Gaboud Chowk. Independent witnesses Gautam Sidar and Malikram Patel were summoned. During the blockade, the accused Omprakash Dhritlahare, riding a motorcycle (CG-04 KP 3758) with a black pittu bag, was intercepted. On enquiry, he admitted that the bag contained ganja. After obtaining his consent, the bag was searched, and four packets of ganja were recovered. Upon identification and weighment, each packet was found to contain 1 kg, totalling 4 kg. After mixing, two samples of 50 grams each were drawn and sealed, and the remaining 3.900 kg was separately sealed. The contraband and the motorcycle were seized, and an offence under Section 20(b) of the NDPS Act was registered. After completion of investigation, charge-sheet was filed. The accused denied the charges, and trial was conducted after recording his statement under Section 313 Cr.P.C.



3. 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.
4. The learned Special Judge (NDPS) and First Additional Sessions Judge, Balodabazar, District- Balodabazar (C.G.), after appreciating oral and documentary evidence available on record vide judgment dated 03.09.2016, 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.
5. The appellant was in jail from 05.11.2015 to 20.09.2016 (total 322 days)
6. Learned counsel for the appellant would submit that the appellant is innocent person and has been falsely implicated in the afore-said 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.
7. Learned counsel for the appellant 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 appellant at present is aged about 32 years and as he is facing criminal trial



since 2015 and has already undergone around 322 days of jail sentence awarded by the trial Court. There is also no previous criminal antecedents against the appellant. Therefore, the jail sentence awarded to the appellant may be reduced to the period already undergone by him.

8. 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.
9. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
10. From perusal of the records, it transpires that On receiving information and instructions from the SDOP, the police set up a check post at Gaboud Chowk and intercepted the accused Omprakash Dhritlahare riding a motorcycle with a bag. Upon enquiry, he admitted that the bag contained ganja. After obtaining consent and conducting search in presence of witnesses, four packets of ganja weighing 4 kg were recovered. Samples were drawn and sealed, and the remaining contraband along with the motorcycle was seized. An offence under Section 20(b) of the NDPS Act was registered, and after investigation, charge-sheet was filed. 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 3 years to appellant and fine of Rs. 10,000/-. Considering the material available on record and the evi-



dence 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.

11. 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 4 kg of ganja in violation of the provisions of the NDPS Act.
12. As regards the sentence awarded to the appellant. Considering the fact that the appellant is facing criminal trial since 2015, considering the age of the appellant at present and further considering the quantity of contraband seized from the possession of appellant i.e. 4 kg contraband(ganja), which is intermediate quantity and there is no previous criminal antecedents against him and further the appellant was in jail from 05.11.2015 to 20.09.2016 (total 322 days) 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.



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13. With the aforesaid observations, the criminal appeal is **allowed in**

part. The appellant is 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 him. The appellant is reported to be on bail. Surety and personal bond earlier furnished at the time of suspension of sentence shall remain operative for a period of six months in view of the provisions of Section 437-A Cr.P.C.

14. 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