



2026:CGHC:12785

NAFR

## HIGH COURT OF CHHATTISGARH AT BILASPUR

### **CRA No. 1571 of 2025**

Shiv Kailash Sahu S/o Shri Ramayan Sahu Aged About 25 Years  
R/o Konargarh PS Mulmula Distt. Janjgir-Champa Chhattisgarh

**... Appellant**

**versus**

State Of Chhattisgarh Through SHO Sarkanda Bilaspur Distt.  
Bilaspur Chhattisgarh

**... Respondent**

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|----------------------|----------------------------------------------------------------------------------|
| For Appellant        | : Mr. Jitendra Chandrakar, Advocate, with<br>Mr. Ishwar Prasad Rathore, Advocate |
| For Respondent/State | : Ms. Laxmin Kashyap, P.L.                                                       |

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**Hon'ble Shri Justice Sanjay Kumar Jaiswal**

### **Judgment on Board**

**17/03/2026**

- 1** The present appeal has been filed under Section 415(2) of BNSS against the judgment of conviction and order of sentence dated 08.05.2025 passed by learned Special Judge (NDPS Act), Bilaspur (C.G.) in Special Sessions (NDPS) Case No.158/2023 whereby the appellant has been convicted and sentenced as under :

| Conviction | Sentence |
|------------|----------|
|------------|----------|



|                                  |                                                                                                                          |
|----------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| U/s 20(b)(ii)(B) of the NDPS Act | Rigorous imprisonment for 7 years with fine of Rs.50,000/-, in default of payment of fine, additional R.I. for 6 months. |
|----------------------------------|--------------------------------------------------------------------------------------------------------------------------|

- 2** The case of prosecution, in short, is that on 18.10.2023, a secret information was received by Sub Inspector Narayan Thakur (PW-9) of Sarkanda Police Station to the extent that one person keeping Ganja in his Activa scooter was coming from Torwa Bridge to Sarkanda for sale, in contravention of the NDPS Act. On the basis of the said information, a proceeding as is required under the NDPS Act was initiated by PW-9 Mr. Narayan Thakur, the Sub-Inspector of Police Station, Sarkanda, Bilaspur. Intimation in this regard was immediately sent to the higher officer. The police team headed by PW-9, along with independent witnesses went to the spot and on search, 10.1 Kg. Ganja was found in possession of the appellant which was kept in a vegetable sack in front of the Activa. The statutory provisions under the NDPS Act was complied with and the matter was put to trial before the Special Judge, NDPS Act, Raipur.
- 3** So as to hold the appellant guilty, the prosecution has examined as many as 9 witnesses and exhibited 71 documents. The statement of the appellant was also recorded under Section 313 of the Cr.P.C. in which he denied the circumstances appearing against him and pleaded innocence and false implication in the case.
- 4** The trial Court, taking into consideration the evidences which have come on record, vide impugned judgment found the appellant guilty for the offence punishable under Section Section 20 (b) (ii)(B) of NDPS Act and accordingly, convicted and sentenced him under the said section as



mentioned in paragraph-1 of this judgment leading to the filing of this appeal.

- 5 Learned counsel for the appellant submits that he is not pressing the appeal so far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to him, the maximum sentence imposed upon the appellant is 7 years and he has already served the jail sentence of 2 years & 5 months. Hence, considering all theses facts, the sentence imposed upon the appellant may be reduced to the period already undergone by him.
- 6 Per contra, learned counsel appearing for the State, supporting the impugned judgment, opposed the arguments advanced on behalf of the counsel for appellant. He submits that the appellant has a criminal antecedent under the NDPS Act of the year 2022.
- 7 Heard learned counsel for the parties and perused the record.
- 8 Having gone through the material available on record and the statements of Sub Inspector Narayan Thakur (PW-9), Constables Krishna Kumar Dubey (PW-1), Sanjeev Jangde (PW-5) & Vivek Rai (PW-6), FSL report Ex.P-69 and the proceedings conducted by the Investigating Officer Narayan Thakur (PW-9), the involvement of the appellant in the crime in question is clearly established. This Court does not see any illegality in the findings recorded by the Trial Court as regards conviction of the appellant for the offence punishable under Section 20(b)(ii)(B) of the NDPS Act.
- 9 As regards sentence, in the matter of **Mohammad**



**Giasuddin v. State of Andhra Pradesh** reported in **(1977)**

**3 SCC 287**, Hon'ble Supreme Court has observed that if you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries and held in para-9 as follows:

"9. Western jurisprudes and 'sociologists, from their own angle have struck a like note. Sir Samuel Romilly, critical of the brutal penalties in the then Britain, said in 1817 :

"The laws of England are written in blood". Alfieri has suggested : 'society prepares the crime, the criminal commits it'. George Nicodotis, Director of Criminological Research Centre, Athens, Greece, maintains that 'Crime is the result of the lack of the right kind of education.' It is thus plain that crime is a pathological aberration, that the criminal can ordinarily be redeemed, that the State has to rehabilitate rather than avenge. The sub-culture that leads to anti-social behaviour has to be countered not by undue cruelty but by re-culturation. Therefore, the focus of interest in penology is the individual, and goal is salvaging him for society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today views sentencing as a process of reshaping a person who has deteriorated into criminality and the modern community has a primary stake in the rehabilitation of the offender as a means of social defense. We, therefore consider a therapeutic, rather than an in 'terrorem' outlook, should prevail in our criminal courts, since brutal incarceration of the person merely produces laceration of his mind. In the words of George Bernard Shaw : 'If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries'. We may permit ourselves the liberty to quote from Judge Sir Geoffrey Streatfield : "If you are going to have anything to do with the criminal Courts, you should see for yourself the conditions under which prisoners serve their sentences."



- 10** In the light of the decision of the Supreme Court in the case of **Mohammad Giasuddin** (supra) and keeping in view the fact that the maximum sentence imposed upon the appellant is 7 years, out of which he has already served the jail sentence of 2 years & 5 months and also considering the facts and circumstances of the case, this Court is of the opinion that the ends of justice would serve if the appellant is sentenced to the period already undergone by him.
- 11** Accordingly, the conviction of the appellant under Section 20(b)(ii)(B) of the NDPS Act is maintained but his jail sentence is reduced to the period already undergone by him i.e. 2 years & 5 months. However, the fine of Rs.50,000 imposed upon the appellant by the Trial Court is enhanced to Rs.1,00,000. In default of payment of enhanced fine amount, the appellant shall undergo RI for one year. Any fine amount already deposited by the appellant shall be adjusted.
- 12** Consequently, the appeal is **allowed in part** to the extent indicated herein-above.
- 13** The appellant is reported to be in jail. He be released forthwith if not required to be detained in default of fine, and in any other case.
- 14** Let a certified copy of this judgment along with the record of the trial Court be sent back forthwith for compliance and necessary action, if any. A copy of the judgment may also be sent to the concerned Jail Superintendent wherein the appellant is suffering the jail sentence.

**Sd/-**  
**(Sanjay Kumar Jaiswal)**  
**JUDGE**