



2026:CGHC:12657



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1190 of 2016

Mardan Singh S/o Shri Dharu Singh Aged About 25 Years R/o Village Meriyakhedi Khurd, Police Station Chachauda, District Guna, Madhya Pradesh., Madhya Pradesh

... Appellant

versus

State Of Chhattisgarh Through Station House Officer, Police Station G.R.P. District Raipur, Chhattisgarh., Chhattisgarh

... Respondent(s)

For Appellant : Mrs. Kiran Jain, Advocate

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

Hon'ble Shri Justice Arvind Kumar Verma

Judgment on Board

17/03/2026

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 24.02.2016 passed by the learned Special Judge (NDPS Act) Raipur, District- Raipur (C.G.), in Spe-



cial Criminal Case No. 1042/2015, 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 4 years with fine of Rs. 10,000/-, in default of payment of fine, additional R.I. for 6 months.

2. Case of the prosecution, in brief, is that, on 16.08.2015 at about 15:15 hours (evening), Sub-Inspector of Police Station GRP, Raipur received information from an informant that in the train coming from Visakhapatnam to Hazrat Nizamuddin, namely Santa Express, two युवक (young men) were sitting in the general coach at the front, carrying ganja from Odisha. Upon receiving this information, the police called witnesses by serving notices and prepared the informant panchnama in their presence. Considering the possibility of disposal of the contraband and the accused absconding, and due to inability to obtain a search warrant, a search panchnama was prepared in the presence of witnesses. The police, along with witnesses, reached Platform Nos. 2 and 3 near the new overbridge at Raipur Railway Station. Acting on the information given by the informant, when the accused Madan Singh was found, he was served notice under Section 50 of the NDPS Act and informed that he had the right to be searched before a Magistrate or a Gazetted Officer, or by the Sub-Inspector himself. In this regard, the accused consented to be searched by the Sub-Inspector. The police first searched the witnesses and staff members, but



no contraband was found on them. Thereafter, upon searching the accused's air bag, 5 packets containing 9 kilograms of ganja, valued at ₹45,000, were found. The ganja was weighed, and a 50-gram sample packet was prepared. The sample packet and the remaining ganja were sealed, and the sample was seized. The police brought the accused, witnesses, and seized contraband to the police station and registered the First Information Report (FIR). The accused was arrested, and the seized property was deposited in the police station's malkhana (storage). Copies of the FIR, seizure memo, and arrest memo were sent to the Superintendent of Police (Rail), Raipur and the Court. The sample packet of ganja was sent to the Forensic Science Laboratory, Raipur for chemical examination. Statements of witnesses were recorded. The chemical examination report confirmed that the sample contained ganja. After investigation, the final report (charge sheet) dated 06.10.2015 was submitted before the Court.

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 Act) Raipur, District- Raipur (C.G.), after appreciating oral and documentary evidence available on record vide judgment dated 24.02.2016, 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 17.08.2015 to 22.08.2017 (2 years 4 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 35 years and as he is facing criminal trial since 2016 and has already undergone more than 2 years and 4 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 Laywer 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 16.08.2015 at about 15:15 hours, the Sub-Inspector of Police Station GRP, Raipur received information that two persons travelling in the Samta Express from Visakhapatnam to Hazrat Nizamuddin were carrying ganja. After recording the information and preparing the informant panchnama in the presence of witnesses, the police proceeded to Platform Nos. 2 and 3 at Raipur Railway Station. The accused Madan Singh was identified and served notice under Section 50 of the NDPS Act, informing him of his right to be searched before a Magistrate or a Gazetted Officer. He consented to be searched by the Sub-Inspector. Upon search of his air bag, 9 kilograms of ganja, packed in five packets, was recovered. A 50-gram sample was drawn, and the contraband was duly sealed and seized. The accused was arrested, and an FIR was registered. The seized property was deposited in the malkhana, and the sample was sent to the Forensic Science Laboratory, Raipur, which confirmed the substance to be ganja. After completion of investigation, charge sheet dated 06.10.2015 was filed before the Court. 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 6 years to appellant and fine of Rs. 25,000/-. 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 9 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. 9 kg contraband(ganja), which is intermediate quantity and there is no previous criminal antecedents against him and further the appellant was in jail from 11.07.2015 to 22.08.2017 (2 years 4 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.



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