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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****Criminal Appeal No.1589 of 2025**

Surajpal Alias Suruj S/o Natthulal Aged About 33 Years R/o Village
Baihaar Bharatkup, Police Station Karbi, District- Chitrakoot (U.P.)

... Appellant**versus**

State Of Chhattisgarh Through P.S. City Kotwali Raipur (C.G.)

... Respondent

For Appellant :Shri Lukesh Kumar Mishra, Advocate.

For Respondent/State :Shri Aman Tamrakar, PL.

Hon'ble Shri Justice Sanjay Kumar Jaiswal**Judgment on Board****15.04.2026**

1. The present Criminal Appeal under Section 415(2) of Bhartiya
Nagrik Suraksha Sanhita, 2023 has been preferred by Appellant
against the judgment of conviction and order of sentence dated



02.07.2025 passed by the learned Special Judge (NDPS Act), Raipur, District Raipur (CG) in Special Criminal Case No.279/2024, whereby the Appellant has been convicted and sentenced as under:

Conviction	:	Sentence
U/s 20(b)(ii)(B) of the NDPS Act		RI for 7 years with fine of Rs.50,000/-, in default of payment of fine, additional RI for 6 months.

2. The prosecution case, in brief, is that on 18.09.2024, the Investigating Officer Sub-Inspector Hetram Sidar of Police Station City Kotwali, Raipur, received a secret information that a person wearing black trousers and a blue full-sleeve T-shirt was standing near the closed HP petrol pump at Pachpedi Naka, Raipur carrying *ganja* in a black trolley bag and looking for customers. The information was recorded in the daily diary and a constable was directed to secure two independent witnesses, who were brought to the police station, informed of the secret information and their consent was obtained to act as witnesses. In their presence, a memorandum of the information and a search *panchnama* without warrant were prepared and the information was forwarded to the concerned superior officer. Thereafter, the Investigating Officer, along with staff and witnesses, proceeded to the spot. The suspect was found as per the description, who is the present Appellant. He was informed of his legal rights under Section 50 of the NDPS Act



and consented to be searched by the Investigating Officer. Upon search, a black trolley bag in his possession was found containing two large polythene packets wrapped in brown tape, suspected to be *ganja*. On examination, the substance was identified as ganja. After due notice, the contraband was weighed 5.900 kg and 5.910 kg respectively, totaling 11.810 kg and was seized, sealed, and documented in accordance with law. The accused was arrested, informed of the grounds of arrest and intimation was given to his family. FIR was registered and the seized property was deposited in the police *malkhana*. The samples of seized contraband were collected and sent for FSL examination. After completing investigation and complying with other procedural requirements, the charge-sheet was filed.

3. The prosecution has in all examined 8 witnesses and exhibited 51 documents to prove its case. The accused was examined under Section 313 CrPC wherein he pleaded innocence and false implication. After conclusion of trial, considering the evidence of prosecution witnesses and material available on record, learned Trial Court by impugned judgment, convicted and sentenced the Appellant, as mentioned above.

4. At this stage, learned Counsel for the Appellant submits that he does not challenge the finding of conviction and confines his argument to the sentence part only, which according to him is on



higher side. He further submits that the occurrence is related to the year 2024 and the detention period of the accused Appellant during trial is 3 months and 20 days and his total custody period is about 1 year 1 month and 2 days out of total sentence of 7 years' RI. He further submits that the Appellant is presently in jail and prays that the sentence awarded to him for the aforesaid offence may be reduced to the period already undergone by him.

5. Per contra, learned State Counsel supports the impugned judgment and opposes the arguments advanced on behalf of the Appellant. He, however, submits that there are no previous criminal antecedents against the present Appellant.

6. I have heard learned counsel for the parties and have also perused the material available on record including the impugned judgment.

7. Having gone through the material available on record and the statements of witnesses particularly independent witnesses i.e. Dau Nishad (PW-3) and Sanju Gupta (PW-8), Head Constable Suresh Yadav (PW-7) and Investigating Officer Hetram Sidar (PW-6), which substantially proved the recovery of contraband from the possession of the Appellant as also the FSL Report (EX.P-49) which shows that the sample material contained in Articles A-1 & B-1 were found to be positive 'Ganja', this Court does not find any



illegality or infirmity in the findings recorded by the trial Court as regards the conviction of the Appellant for the offence mentioned above, which is hereby affirmed.

8. As regards sentence, in **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 jurists 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."

9. Applying the analogy laid down in **Mohammad Giasuddin** (supra) and keeping in view the fact that the maximum sentence imposed upon the Appellant is 7 years under section 20(b)(ii)(B) of the NDPS Act and his custody period is 1 year, 1 month and 2 days and as per the Arrest Memo (Ex.P.22), the Appellant is an illiterate person and is a labourer and there are no criminal antecedents against him and thus looking to the over-all circumstances, it would be just and proper if the sentence of 7 years RI awarded by the trial court for offence under section 20(b)(ii)(B) of the NDPS Act is reduced to 1 and ½ years' RI. Accordingly, The conviction u/s 20(b)(ii)(B) of the NDPS Act is maintained and the sentence is reduced from 7 years to that of 1 and ½ years. However, the sentence of fine imposed by the trial Court shall remain intact.



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10. In the result, the Appeal is **allowed in part** to the extent indicated here-in-above.

11. The Appellant remained in jail for 3 months and 20 days during trial and has been in custody since 02.07.2025. His custody period shall be entitled to set-off of the said period against the sentence of 1 and ½ years' RI.

12. Let a certified copy of this judgment along with the original record be transmitted to the concerned trial Court forthwith for information and necessary action. A copy of this judgment be also sent to the concerned Superintendent of Jail where the Appellant is undergoing jail sentence.

Sd/-

(Sanjay Kumar Jaiswal)
Judge