



2026:CGHC:12659

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1460 of 2016

Hetram Dubey S/o Late Subedar Dubey, Aged About 36 Years Caste Bramhan,
R/o Village Kudmura, Police Station Kartala, District Korba, Chhattisgarh

... Appellant

versus

State of Chhattisgarh Through Excise Circle (South) District Korba,
Chhattisgarh

... Respondent

For Appellant	:	Mr. Amit Singh, Advocate
For Respondent/State	:	Mr. Vivek Mishra, PL

(Hon'ble Shri Justice Arvind Kumar Verma)

Judgment on Board

17/03/2026

- This criminal appeal preferred by the appellant under Section 374 (2) of the Code of Criminal Procedure is directed against the impugned judgment dated 26/10/2016 passed by the Special Judge (NDPS), Korba, C.G. in Special (N.D.P.S.) Case No.09/2015 whereby the appellant has been convicted and sentenced as under:-

Conviction	Sentence
Under Section 20(b) (ii) (B) of Narcotic Drug and Psychotropic Substances Act, 1985	R.I. for 5 Years and fine of Rs.10,000/- and in default of payment of fine 01 Year additional R.I.



2. The prosecution's case in brief is that on 16/05/2015 Ranjeet Gupta, Excise Sub-Inspector of Excise Sub Inspector Circle Korba during the investigation, based on information provided by an informant at the Kugura bus stand, due to time constraints without a search warrant, the accused, Hetram Dubey, was stopped at the Hanti Road forest barrier by a team of officers and staff. Witnesses were summoned and, in their presence, the accused, Hetram Dubey, was informed of the informant's information and told that he possessed marijuana and was to be searched. Upon his consent to the search, a bud-like, moist substance in a plastic bag was seized. Upon examination, it was found to be marijuana. It was then weighed and found to weigh 5 kilograms. 90 grams of marijuana was taken as a sample, filled three polythene bags (30 grams each), sealed with paper, and samples A, B, and C were prepared. The remaining marijuana was placed in the same plastic bag, sealed with paper, and seized from the accused.
3. When the accused was found to have committed an offence under the Psychotropic Substances and Narcotic Substances Act, he was arrested after giving the reason for his arrest in writing and his brother Santosh Dubey was informed about his arrest. A case was registered against the accused. The sample was sent to the Assistant Commissioner of Excise for examination. Assistant Commissioner of Excise ordered Prakash Thankachan to examine the sample. The seized narcotic substance was sent to the police station for keeping, but was returned due to lack of space.
4. After investigation, it was kept in the storehouse of the Excise



Department. In the investigation report received from the Forensic Science Laboratory, Raipur, the substance was found to be ganja and after necessary investigation, the charge sheet was presented against the accused in the court on 03.08.2015.

5. A charge sheet under section 20 (b) (II) (B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 was framed against Hetram Dubey and read out to him. On being explained to him, the accused denied having committed the crime and his plea was recorded in his own words. The accused was examined under section 313 CrPC. In the examination of the accused, he declared himself innocent and that he had been falsely implicated and expressed his intention to give evidence in his defence, but no defence witness was examined.
6. Learned trial Court after evaluating the facts & evidence convicted the accused as aforesaid. Hence this appeal.
7. Learned counsel appearing for the appellant submits that he is not pressing this appeal on merits and confining the arguments to the quantum of sentence only. He would next contend that the sentence awarded to the appellant is R.I. for 05 Years and the appellant was in jail since 16/05/2015 to 16/02/2017 thereafter he was granted bail by this Court and presently also he is on bail. He would next contend that since the incident is of the year 2015 and more than 10 years have elapsed, therefore, it is prayed that the sentence awarded to appellant be reduced to the period already undergone by him.
8. *Per contra*, learned State counsel would submit that the judgment of the



trial Court is well merited which do not call for any interference.

9. I have heard learned counsel for the parties and perused the evidence.
10. Upon due consideration of the entire material available on record, this Court proceeds to examine whether the prosecution has been able to establish beyond reasonable doubt that on 16.05.2015 at about 9:00 AM, at forest barrier Kudmura, Police Station Kartala, District Korba, the appellant was found in conscious possession of 5.000 kilograms of ganja in contravention of the provisions of the NDPS Act.
11. The prosecution case primarily rests upon the testimony of PW-03 Ranjeet Gupta, who was posted as Excise Sub Inspector and is the seizing officer in the present case. He has stated that on 16.05.2015 he received secret information regarding transportation/possession of ganja, which he reduced into writing vide Ex. P/01 and thereafter informed his superior officer. He further deposed that after complying with the procedural requirements, he along with his staff, including PW-05 Anil Singh Thakur, proceeded towards the spot namely forest barrier Kudmura. According to him, at the spot the appellant was apprehended and on search of the bag carried by him, a plastic sack containing suspected contraband was found. Upon weighing, the said contraband was found to be 5 kilograms. He has further stated that samples were drawn from the seized substance, sealed on the spot, and necessary seizure and sampling proceedings were prepared. His evidence further establishes that the contraband was seized in accordance with law and proper documentation was made contemporaneously.



12. The testimony of PW-03 finds material corroboration from PW-05 Anil Singh Thakur, who has supported the prosecution case with regard to receipt of information, reaching the spot, apprehension of the appellant, recovery of ganja from his possession, and preparation of seizure and sampling proceedings. Both these witnesses have withstood the test of cross-examination and nothing substantial has been elicited to discredit their version. Their statements are consistent and inspire confidence.
13. The documentary evidence placed on record, including Ex. P/01 relating to information, seizure memo Ex. P/08, sampling and sealing documents Ex. P/09 to Ex. P/12, and the report of the Forensic Science Laboratory Ex. P/26, further strengthen the prosecution case. The FSL report clearly confirms that the seized substance was ganja. The chain of custody of the seized articles and samples has been duly established and there is no material to indicate any tampering.
14. So far as compliance of statutory provisions is concerned, it is evident from the testimony of PW-03 and documentary evidence that the information received was reduced into writing and communicated to the superior officer, thereby satisfying the requirement of Section 42 of the NDPS Act. The recovery in the present case has been effected from a bag carried by the appellant and not from his personal search; therefore, the provisions of Section 50 of the NDPS Act are not attracted. The prosecution has also established due compliance with Sections 52 and 55 of the NDPS Act relating to handling and custody of seized contraband.
15. It is true that the independent witnesses have not fully supported the



prosecution case; however, it is well settled that the evidence of official witnesses cannot be discarded merely on that ground if it is otherwise reliable and trustworthy. In the present case, the evidence of PW-03 Ranjeet Gupta and PW-05 Anil Singh Thakur is cogent, consistent and inspires confidence, and there is no reason to disbelieve them merely because they are official witnesses. The appellant, in his statement under Section 313 of CrPC, has denied the allegations and claimed false implication, but he has not led any defence evidence nor has he been able to point out any material contradiction or infirmity in the prosecution case. The defence version thus remains a bare denial without any substantive support.

16. On a cumulative appreciation of the oral and documentary evidence, this Court is satisfied that the prosecution has been able to prove beyond reasonable doubt that the appellant was in conscious and exclusive possession of 5 kilograms of ganja, which falls below commercial quantity, and thereby committed an offence punishable under Section 20(b)(ii)(B) of the NDPS Act. The finding of conviction recorded by the trial Court is based on proper appreciation of evidence and does not suffer from any illegality or perversity warranting interference. Accordingly, the conviction of the appellant under Section 20(b)(ii)(B) of the NDPS Act is hereby affirmed.
17. Having affirmed the conviction, this Court now turns to the question of sentence. The seized quantity of ganja is 5 kilograms, which is admittedly less than commercial quantity and thus does not attract the rigours of minimum mandatory punishment prescribed for commercial



quantity offences. The sentencing, therefore, lies within the discretion of the Court. It is evident from the record that the appellant has already undergone a substantial period of incarceration during the course of trial and after conviction. There is no material available on record to show that the appellant has any criminal antecedents or that he is a habitual offender. The incident pertains to the year 2015, and the appellant has faced the criminal proceedings for a considerable period of time. It is also not the case of the prosecution that the appellant was involved in organized trafficking or that there existed any aggravating circumstance.

18. Considering the nature of the offence, the quantity involved, the period already undergone in custody, absence of criminal antecedents, and the long lapse of time since the incident, this Court is of the considered opinion that the ends of justice would be adequately served if the substantive sentence of imprisonment awarded to the appellant is reduced to the period already undergone by him, while maintaining the fine imposed by the trial Court.
19. In the result, while maintaining the conviction of the appellant under Section 20(b)(ii)(B) of the NDPS Act, the sentence of imprisonment is reduced to the period already undergone. The fine imposed by the trial Court is maintained.
20. Consequently, this appeal stands **allowed in part** to the extent indicated herein-above.
21. Appellant is on bail. His bail bonds shall remain operative for a period of 06 months in view of Section 437A of CrPC (now Section 481 of



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22. The lower court record along with a copy of this judgment be sent back immediately to the trial court concerned for compliance and necessary action.

SD/-
(Arvind Kumar Verma)
JUDGE

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