



2026:CGHC:14931



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1812 of 2017

Nirmal Sahu S/o Fulchand Sahu, Aged About 26 Years R/o Kutir Para,
Paragaon, Police Station Gobra Navarapara, District Raipur,
Chhattisgarh., Chhattisgarh

... Appellant

versus

State Of Chhattisgarh Through Police Station Gobra Navarapara,
District Raipur, Chhattisgarh., Chhattisgarh

... Respondent(s)

For Appellant : Ms. Sareena Khan, Advocate

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

Hon'ble Shri Justice Arvind Kumar Verma

Judgment on Board

01/04/2026

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 05.05.2017 passed by the learned Special Judge (NDPS Act) Raipur, District- Raipur (C.G.), in Special Criminal Case No. 178/2016, 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. 20,000/-, in default of payment of fine, additional R.I. for 6 months.

2. The prosecution case, in brief, is that on 04.07.2016 at about 13:00 hours, the Station House Officer of Police Station Gobra Nawapara, Sapan Chaudhary, received information from an informant that in Kutipara, Paragaon, the accused Nirmal Sahu was keeping cannabis (ganja) in a sack outside his house and was looking for customers to sell it. Acting on this information, the police called witnesses Gopal Sonkar and Anant Sonkar, informed them about the tip-off, and prepared an informant memorandum (panchnama). The said memorandum was sent to the CSP, Mana, Raipur. Considering the possibility of the accused absconding or destroying evidence, a panchnama was prepared for not obtaining a search warrant. The investigating officer, along with police staff and witnesses, proceeded to the spot at Kutipara, Paragaon. Upon finding the accused, he was served a notice informing him of his right to be searched before a Magistrate or a Gazetted Officer. The accused consented to be searched by the investigating officer Sapan Chaudhary. The investigating officer first offered his own search, as well as that of the police staff and witnesses, to the accused, in which no contraband was found. Thereafter, the police searched a jute sack found with the accused, from which ganja was recovered. Identification proceedings of the seized



ganja were conducted. Shankar Lal Devangan was called to the spot with weighing scales and weights. The seized ganja was homogenized. Upon physical verification, the weighing scale was found to be correct. The ganja recovered from the accused was weighed and found to be **8.020 kilograms**. From the seized ganja, two sample packets of 500 grams each were prepared and sealed. The accused was served a notice to produce documents relating to the ganja. The sample packets were seized. After completion of the proceedings, the search of police staff and witnesses was again offered to the accused. A spot map of the place of occurrence was prepared. A preliminary report (Dehati Nalishi) was recorded at the spot. The accused was arrested. The investigating officer returned to the police station along with police staff, witnesses, the accused, and the seized property. The seized property was deposited in the police station's malkhana. A First Information Report (FIR) was registered. Statements of witnesses were recorded. A detailed report of the proceedings was submitted to the City Superintendent of Police, Mana, Raipur. A spot map was also prepared through the Patwari. The seized sample packets were sent for chemical examination, which confirmed the substance to be ganja. After completion of investigation, the police filed the charge sheet (final report) before the Court on 12.08.2016. Charges were framed against the accused under Section 20(ii)(B) of the NDPS Act. The accused denied committing the offence. During examination under Section 313 of the CrPC,



the accused stated that he is innocent and has been falsely implicated.

3. The learned Special Judge (NDPS Act) Raipur, District- Raipur (C.G.), after appreciating oral and documentary evidence available on record vide judgment dated 05.05.2017, 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.
4. The appellant was in jail from 05.07.2016 to 13.04.2018 (21 months).
5. Learned counsel for the appellant would submit that the appellant is innocent person and has been falsely implicated in the aforesaid 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.
6. 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 21 months of jail sentence awarded by the trial Court. There is also no previous criminal an-



tecedents against the appellant. Therefore, the jail sentence awarded to the appellant may be reduced to the period already undergone by him.

7. 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.
8. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
9. From perusal of the records, it transpires that on 04.07.2016 at about 13:00 hours, the Station House Officer of Police Station Gobra Nawapara received a secret information that the accused, Nirmal Sahu, was illegally possessing and attempting to sell ganja at Kutipara, Paragaon. Acting upon the said information, the police called independent witnesses and prepared an informant panchnama, which was duly forwarded to the CSP, Mana, Raipur. Due to the possibility of the accused absconding or destroying evidence, a search warrant could not be obtained and a panchnama to that effect was prepared. The police party, along with witnesses, proceeded to the spot where the accused was found. He was informed of his legal right to be searched before a Magistrate or a Gazetted Officer, but he consented to be searched by the Investigating Officer. Prior to conducting the search, the Investigating Officer, police staff, and witnesses offered their personal search to the accused, in which no contraband was found. Upon search of a



sack in possession of the accused, ganja was recovered. The contraband was identified, weighed with the help of a weighing scale brought to the spot, and found to be 8.020 kilograms. Two samples of 500 grams each were drawn, sealed, and seized in accordance with procedure. A spot map was prepared and a Dehati Nalishi was recorded at the scene. The accused was arrested and the seized property was deposited in the police station malkhana. An FIR was registered and statements of witnesses were recorded during investigation. The seized samples were sent for chemical examination, which confirmed the substance to be ganja. After completion of investigation, the police filed the charge sheet before the Court under Section 20(ii)(B) of the NDPS Act. Considering the material available on record and the evidence 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.

10. 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 8 kg 20 gm of ganja in violation of the provisions of the NDPS Act.



11. As regards the sentence awarded to the appaellant. Considering the fact that the appellant is facing criminal trial since 2016, considering the age of the appellant at present and further considering the quantity of contraband seized from the possession of appellant i.e. 8 kg 20 gm contraband(ganja), which is intermediate quantity and there is no previous criminal antecedents against him and further the appellant was in jail from 05.07.2016 to 13.04.2018 (21 months), 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.
12. 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.
13. 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