



2026:CGHC:8379

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 2618 of 2025**

1 - Shailu Tiwari @ Lala S/o Pawan Tiwari Aged About 21 Years
R/o Ward No. 11, Near Mukti Morcha Office, Azad Nagar,
Rawabhata, P.S. - Khamtarai, Raipur, District - Raipur (C.G.)

--- Appellant**versus**

1 - State Of Chhattisgarh Through - Station House Officer,
Police Station Khamtarai, Raipur, District - Raipur (C.G.)

--- Respondent**CRA No. 55 of 2026**

1 - Aman Nijam S/o Late Abdul Nijam Aged About 49 Years R/o
Subhash Nagar, Ward No. 36, Moudaha Para, P.S.- Ganj,
Raipur, District- Raipur (C.G.)

---Appellant**Versus**

1 - State Of Chhattisgarh Through District Magistrate, Raipur,
District Raipur (C.G.)

--- Respondent

For Appellant	: Mr. Goutam Khetrapal, Advocate in CRA No. 2618/2025. Mr. Yogesh Pandey, Advocate in CRA No. 55/2026.
For Respondent/State	: Mr. Amit Verma, P.L.

Hon'ble Shri Justice Sanjay Kumar Jaiswal**Order on Board****17/02/2026**

1. Since both the appeals arise out of the same judgment dated 06.11.2025, they are being heard and disposed of by this common order.
2. The present appeals arises out of the impugned judgment of conviction and order of sentence dated 06.11.2025 passed by the learned Special Judge, (N.D.P.S. Act), Raipur, District-Raipur (C.G.), in Special Case No. 24/2021 whereby the learned Special Judge has convicted and sentenced the appellants as under :

Conviction	Sentence
U/s 20(b)(ii)(B) of N.D.P.S. Act	R.I. for 10 years with fine of Rs. 1,00,000/- each, and in default of payment of fine amount additional R.I. for 2 years each.

3. Brief facts of the case are that on 10.12.2020, sub-inspector Kamal Narayan Sharma (PW-9) of police station Khamtarai, Raipur received secret information from an informant that three persons were standing near Banjari Nagar, Bandha, and they were in possession of Ganja for sale. The said information was recorded in Rojnamcha Sanha. The intimation about secret information was sent to a senior officer. Two independent witnesses were called. Necessary Rojnamcha Sanha and Mukhbir Suchna Panchnama were prepared. Subsequently, the police party proceeded to the spot, where they intercepted the accused persons. The accused persons were served with the notice under Section 50 of the NDPS Act. After preparing the necessary panchnamas, they searched the accused persons and allegedly recovered 9.843 kg ganja from accused/appellant Aman Nijam, 5.400 kg ganja from accused/appellant Shailu Tiwari and 4.998 kg ganja from

co-accused Prahlad. The samples were prepared and sent for chemical examination to FSL. After due procedure, FIR was registered, and after completion of investigation, charge sheet was filed against the appellants herein and the co-accused.

4. So as to hold the accused/appellants guilty, the prosecution has examined as many as 16 witnesses and exhibited 68 documents. The statements of the accused/appellants were also recorded under Section 313 of the Cr.P.C. in which they denied the circumstances appearing against them and pleaded innocence and false implication in the case.
5. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 06.11.2025, learned Special Judge has convicted and sentenced the accused/appellants as mentioned in para-2 of this judgment. Hence, the present appeals.
6. Learned counsels for the appellants submit that they are not pressing the appeals so far as the conviction is concerned and are confining their arguments to the sentence part thereof only. According to them the incident is said to have taken place on 10.12.2020, and appellant Shailu Tiwari was in jail from 10.12.2020 to 24.05.2021 during trial and from 06.11.2025 till date i.e. total 265 days, and appellant Aman Nijam was in jail from 10.12.2020 to 19.07.2021 during trial and from 06.11.2025 till date i.e. total 324 days. Appellant Shailu Tiwari is aged about 21 years and appellant Aman Nijam is aged about 49 years and they are still serving the jail sentence, appellant Aman Nijam already paid the fine amount, which is evident from the receipt dated 23.01.2026 filed by him with a covering memo dated

03.02.2026; therefore, in the interest of justice, it would be appropriate if the sentence imposed upon them may be reduced to the period already undergone by them and they may be released from jail.

7. Per contra, learned counsel appearing for the State, supporting the impugned judgment, opposed the arguments advanced on behalf of the appellants and submits that, however, the appellants have no criminal antecedents.
8. Heard learned counsel for the parties and perused the material on record including the impugned judgment.
9. Having gone through the material on record and the evidence of the witnesses Sudeep Mishra (PW-2), Dilip Kumar Nayak (PW-4), Pushpraj Singh Parihar (PW-5), Varun Devta (PW-6), Manoj Kumar Sahu (PW-7), Kamal Narayan Sharma (PW-9), Omprakash Verma (PW-10), Roshan Sonkar (PW-11), Phattulal Thakur (PW-12), Sanjay Pundhir (PW-13) and Ajay Jha (PW-14), establishes the involvement of the accused/appellants in the crime in question. Thus, considering the oral and documentary evidence on record the seizure of Ganja from the possession of the accused/appellants which was subsequently found to be Ganja as per FSL report vide Ex. P-64. This Court does not see any illegality in the findings recorded by the trial Court as regards conviction of the appellants under Section 20(b)(ii)(B) of Narcotic Drugs and Psychotropic Substances Act.
10. 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 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.”

11. In the light of the decision of the Supreme Court in the case of **Mohammad Giasuddin** (supra) and keeping in view the facts that appellant Shailu Tiwari has already served the jail sentence of 265 days and appellant Aman Nijam has already served the jail sentence of 324 days,

at present appellant Shailu Tiwari is aged about 21 years and appellant Aman Nijam is aged about 49 years, they have no criminal antecedent, the fine as imposed by the trial Court has already been paid by appellant Aman Nijam, this court is of the opinion that the ends of justice would be served if they are sentenced to the period already undergone by them while keeping the fine amount with default stipulation as imposed by the Trial Court intact.

12. In the result the appeals are **allowed in part**. While maintaining the conviction of the appellants under Section 20(b)(ii)(B) of NDPS Act, their jail sentence is reduced to the period already undergone by them i.e. 265 days and 324 days, respectively, instead of R.I. for 10 years. However, the fine imposed upon each of the appellants by the Trial Court shall remain intact.
13. The appellants are reported to be in jail. They are to be released forthwith if not required in default of payment of the fine amount, and in the other case.
14. Let a certified copy of this order along with original record be transmitted forthwith to the trial Court concerned as well as to the Superintendent of Jail where the appellants are languishing for information and necessary action, if any.

Sd/-
(Sanjay Kumar Jaiswal)
 JUDGE