

GAHC010147282017



2026:GAU-AS:4700

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CrI.A./405/2017

NAWAS SARIF
S/O MD. ALIMUDDIN, R/O IRONG KHUNAO, P.S. LILONG, DIST. THOUBAL,
MANIPUR

VERSUS

UNION OF INDIA
REPRESENTED BY NCB

Advocate for the Petitioner : MS.N DAS, MS.B HAZARIKA,MS.S K NARGIS

Advocate for the Respondent : SC, NCB,

- B E F O R E -

**HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI**

For the Appellant (s) : Ms. B Hazarika, Ms. S K Nargis, Ms. N
Das, Ms. A Mesen, Advocates.

For the Respondent(s) : Mr. R K Dev Choudhury, Dy. SGI.

Date of hearing : **01.04.2026**

Date of judgment : **01.04.2026**

JUDGMENT & ORDER (ORAL)

(M. Zothankhuma, J)

Heard Ms. S K Nargis, learned counsel for the appellant. Also heard Mr. R K Dev Choudhury, learned Dy. SGI for the respondent.

2. The present appeal has been filed against the impugned judgment and order dated 04.09.2017 passed by the learned Additional Sessions Judge No. 1, Kamrup (M), Guwahati in NDPS Case No. 9/2017, by which the appellant has been convicted and sentenced under Section 21(C) of the ND&PS Act and sentenced to undergo rigorous imprisonment for 12 (Twelve) years with a fine of Rs. 1,00,000/- (Rupees One Lakh), in default to undergo simple imprisonment for 2 (Two) years.

3. The counsel for the appellant, at the outset, submits that she does not wish to challenge the impugned judgment and order passed by the learned Special

Court on merit. Her only prayer is that the sentence imposed upon the appellant should be reduced to the minimum sentence provided under Section 21(C) of the ND&PS Act, in view of the fact that the appellant has no previous case involving drugs or of a similar nature, besides the appellant being a boy of only 19 years at the time of his arrest. She also submits that while the driver of the vehicle in which the commercial quantity of morphine had been recovered had run away, the appellant who was the handyman, was caught along with the seized contraband. With regard to the above, the learned counsel for the appellant relies upon the judgment of the Hon'ble Supreme Court in the case of ***Shahejadkhan Maheubkhan Pathan -Vs- State of Gujarat***, reported in ***(2013) 1 SCC 570***.

4. Mr. R K Dev Choudhury, learned Dy. SGI appearing for the respondent submits that though the minimum sentence that could be imposed upon the convicted accused is 10 years with a fine of Rs. 1,00,000/-, the learned Trial Court has committed no illegality in sentencing the appellant to undergo rigorous imprisonment for 12 years with a fine of Rs. 1,00,000/-. He, however, submits that the issue as to whether this Court wants to lower the sentence to the minimum sentence provided under Section 21 (C) of the ND&PS Act is left entirely to the discretion of this Court, as it deems fit and proper.

5. We have heard the learned counsels for the parties and perused the materials available on record.

6. In the case of ***Shahejadkhan Maheubkhan Pathan*** (Supra), the Hon'ble Supreme Court had reduced the sentence imposed upon the appellant therein from 15 years to 10 years, while the appellant therein had already served 12 years in jail. This had been done due to the appellant therein not having any past antecedents in a case of similar nature regarding the ND&PS Act.

7. On considering the fact that the appellant herein was only 19 years of age at the time of his arrest and the fact that he is a first time offender, we are of the view that the interest of justice would be served if the sentence imposed upon the appellant is reduced to the minimum sentence provided under Section 21(C) of the ND&PS Act.

8. Accordingly, while upholding the conviction of the appellant under Section 21(C) of the ND&PS Act, we modify the sentence imposed by the learned Trial Court from 12 years to 10 years. However, we do not intend to interfere with the fine and the default clause imposed upon the appellant by the learned Trial Court.

9. The appeal accordingly stands disposed of.

10. Send back the TCR.

JUDGE

JUDGE

Comparing Assistant