

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL APPEAL NO. 1224 OF 2001

Kejau alias Narendra S/o Shanker Lal, aged about 20 years, labour,
R/o Village Achood, PS Ranchirai, District Durg (CG).

... Appellant

Versus

State of Chhattisgarh

... Respondent

For Appellant	:	Smt. Usha Chandrakar, Advocate.
For Respondent/State	:	Shri Suryakant Mishra, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

JUDGMENT ON BOARD

On 07.10.2017

1. The appellant stands convicted for the offence punishable under Section 20-B(i) of the NDPS Act and has been sentenced to undergo RI for two years with fine of Rs.2000/- with default stipulation of additional RI for four months in the event of non payment of fine amount vide judgment dated 30.10.2001 passed by the Special Judge (NDPS Act), Jagdalpur, in Special Case No.24/2001.
2. The case of the prosecution is that, the present appellant is said to have found carrying 5.650 kg of Ganja in a Plastic bag on 12.03.2001 while waiting for Bus in a platform near the Benur Bus Stand. On receiving secret information, the police authorities reached to the spot and after compliance of mandatory provisions of the NDPS Act prosecuted the appellant for the offence under Section 20-B(i) of the NDPS Act. The court below vide judgment dated 30.10.2001 convicted

and sentenced the appellant for the period as mentioned in the preceding paragraph.

3. Learned counsel for the appellant submits that it is a case where mandatory provisions of Sections 42 and 50 of the NDPS Act which has to be adhered to, has not been followed and therefore the entire case of the prosecution deserves to be quashed only on this ground and prayed for setting aside the judgment impugned.
4. Counsel for the State opposing the appeal submits that it is a case where the case of the prosecution has been proved beyond all reasonable doubts and that all necessary mandatory compliance as is required under the provisions of the Act has also been adhered to, and therefore there is no scope of any interference. He further submits that the case of the prosecution also has been established by the evidence of an independent witness i.e. seizure witness Virendra Kumar, PW-5. Thus prayed for rejection of the appeal.
5. Having considered the rival contentions put forth on either side and on perusal of evidence of PW-5, seizure witness, Virendra Kumar, PW-5, it clearly reflects that there is a mention in his evidence of intimation having been sent to the superior authorities. Further, there is also reflection of necessary compliance as is required under Section 42 of the NDPS Act. Further, if we peruse the deposition of Investigating Officer A.L. Kerketta, PW-4, it would reveal that the said Investigating Officer had also before initiating search and other formalities had made the appellant-accused aware of his statutory rights that he has under the provisions of the NDPS Act so far as the search and seizure are

concerned and only after apprising him, he had conducted search and completed the investigation. Thus, the compliance of Section 50 of the NDPS Act also stood proved and established.

6. Further, from the deposition of seizure witness, Virendra Kumar, PW-5, the case of the prosecution so far as the appellant being found to be carrying 5.650 kg of contraband in his plastic bag and was about to board the Bus stands fully established and proved. Thus, this court has no hesitation in reaching to the conclusion that the case of the prosecution had been fully proved and established before the Trial court for convicting the appellant for the aforesaid offence. Thus, this court does not find any illegality, infirmity or a finding contrary to the evidence, nor does any lapse on the part of the investigating agency in complying with the mandatory requirement under the NDPS Act is found or made out.
7. The appeal thus being devoid of merit deserves to be and is hereby dismissed.
8. It is informed that the appellant, in due course of time, has completed his sentence and has been released from jail on 12.03.2003 and thus, no further steps is required to be taken.

Sd/-
(P. Sam Koshy)
Judge