

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 654 of 2012

Kanak Patel S/o Gowardhan Patel, aged about 35 years, R/o Ramsagarpara, PS Azad Chowk, Distt. Raipur C.G.

---- Appellant

Versus

State of C.G. through PS - City Kotwali, Mahasamund, Distt. Mahasamund, C.G.

---- Respondent

For the Appellant	:	Shri C. R. Sahu, Advocate
For the Respondent/State	:	Shri Lav Sharma, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Order On Board

14/02/2017

The appellant in the instant case stands convicted for the offence punishable under Section 20 (b) (ii) (B) of Narcotic Drugs and Psychotropic Substance Act, 1985 and sentenced to undergo RI for five years with fine of Rs.40,000/-, in default of payment of fine, to further undergo RI for one year vide order dated 06.06.2012 passed by the Special Judge (NDPS Act), Mahasamund (CG) in Special Criminal Case No. 11/2011.

2. Counsel for the appellant submits that the appellant has already undergone the substantive jail sentence of five years yet he is languishing in jail on account of the fact that the fine amount could not be deposited. He submits that the appellant has also remained in custody for a period of additional ten months in addition to the five years of the substantive jail sentence and therefore, the sentence awarded for the default stipulation may be reduced to the period already undergone.

3. Taking into consideration the total facts and circumstances of the case particularly the fact that the appellant in the instant case has already undergone the entire substantive jail sentence and has also undergone an additional period of 10 months out of one year for default of the non-payment of fine amount, this Court in the peculiar facts of the case is of the opinion that ends of justice would meet if the sentence awarded for the default stipulation is reduced to the period already undergone.

4. The fact which is considered for reduction of the sentence imposed for the default stipulation is the financial condition of the appellant as he has not been able to engage a lawyer and he has been provided assistance from the Legal Aid Department. Further, the financial condition of the appellant also stands established from the fact that he has not been able to furnish the bail bond in spite of this Court granting bail to him on 20.02.2015.

5. Accordingly, the sentence imposed by the Court below for the default stipulation i.e. for non-payment of fine amount is reduced to the period already undergone. The appellant is in jail. He be released from jail forthwith if not required in any other case.

6. Thus, the present appeal stands partly allowed and disposed of.

Sd/-
(P. Sam Koshy)
JUDGE