

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 737 of 2012**

Fakiro Manjhi S/o Shon Manjhi Aged About 38 Years R/o
Dhourabhata , Thana Nagri Distt. Bhamtari C.G.

---- Petitioner

Versus

State Of Chhattisgarh S/o Through - Sho., P.S. Grp Raipur C.G.

---- Respondent

For the Appellant : Deepak Jain, Advocate.
For the Respondent/ State: Shri Rajendra Tripathi, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Judgment on Board****16.09.2017**

1. This appeal has been preferred against the judgment dated 09.02.2012 passed in Special Criminal Case No.36/2011 by the Court of Special Judge, Raipur, convicting the appellant under Section 20 (b) (ii) (B) NDPS Act, and sentencing him to undergo RI for 3 years and to pay fine of Rs.20,000/- with default of stipulation.
2. Brief facts of this case are these that on 20.04.2011. PS-GRP, Raipur after following the procedure under the provisions of NDPS Act,1985, searched the appellant and found him in possession of 4 kg Ganja in one bag, and 6 kg in another bag. After process of sampling, weighing etc, FIR (Ex-P-13) was recorded. A sample of the seized

contraband was sent to the FSL, from where report EX-19 was received disclosing that contents of the sample were Ganja a narcotic substance. On completion of investigation, the charge sheet was filed against the appellant. Charge under Section 20 (b) (ii) (B) NDPS Act Raipur, District- Raipur (C.G) was framed by the trial Court. After hearing the parties, the trial Court by the impugned judgment convicted and sentenced the appellant as mentioned above.

3. Learned counsel for the appellant submits that although appeal has been brought with prayer to acquit the appellant on the grounds urged in the appeal memo on this stage, however, the appellant does not wish to press the conviction part of the impugned judgment and he is confining his argument to the sentence part only. He submits that the appellant has already remained in jail for about more than one year & five months and therefore, looking to the quantity of contraband seized from the possession of accused/appellant, he may be sentenced with the period custody already undergone by him in jail.
4. Learned counsel for the State has opposed the submission made and submitted that appellant does not deserve to be benefited in any manner and the appeal is liable to be dismissed.
5. I have heard the learned counsel for the parties and

perused all the document placed on record.

6. Since the appellant does not want to challenge the finding of the trial Court convicting him under Section 20 (b) (ii) (B) NDPS Act the same is hereby affirmed.
7. Considering the prayer made by appellant for reduction of sentence, it is found that appellant has already undergone a period of custody of one year five months and seven days, before he was released on bail by the order of this court. As there is no minimum sentence prescribed for the offence under Section 20 (b) (ii) (B) NDPS Act, the prayer made by appellant can be considered and allowed.
8. Accordingly, the appeal is partly allowed. While maintaining the conviction and sentence of appellant under Section 20 (b) (ii) (B) NDPS Act, the sentence imposed upon him is hereby reduced to the period already undergone by him i.e. one year five months & seven days. The appellant is reported to be on bail. His bail bonds stand discharged.
9. The impugned judgment is modified to the extent indicated above.

Sd /-

(Rajendra Chandra Singh Samant)

Judge