

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 786 of 2013**

- Rajesh Singh S/o Late Ramkaran Singh, Aged About 42 Years, R/o Village Near New Vegetable Market Manendragarh, Thana and Tahsil Manendragarh, Revenue and Civil Distt. Koriya Baikunthpur C.G., Chhattisgarh

---- Appellant**Versus**

- State Of Chhattisgarh Through P.S. Manendragarh, Revenue and Civil District Koriya Baikunthpur C.G., Chhattisgarh

---- Respondent

For Appellant : Ms. Aparna Singh, Advocate.

For Respondent/State: Mr. Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Judgment on Board****05/12/2018**

1. This appeal has been preferred against judgment dated 25-06-2013 passed in Special Criminal Case No.02/2011 by Special Judge (N.D.P.S. Act'), Koriya (Baikunthpur), C.G. convicting the appellant under Section 22 of the N.D.P.S. Act, 1985 and sentencing him with R.I. for 10 years along with fine Rs.1,00,000/- with default stipulation.
2. The case of the prosecution, in brief, is this that, on 07-04-2011 ASI Narendra Kumar Tripathi (PW-8) received a confidential information and on that basis he prepared for the raid by preparing panchnama of the information received and finding that search warrant cannot be obtained as there was no time he sent the written information to the superior authority and proceeded to the spot along with the team and witnesses. The appellant was found present on the spot, who was served with the notice under Section 50 of the N.D.P.S.

Act, on that, the applicant gave his consent to be searched by ASI Narendra Kumar Tripathi (PW-8). Person of the appellant was searched, one packet containing brown sugar was found in the pocket of the appellant which was recovered and seized vide memo Ex.-P/12. The seized article was identified and identification memo was prepared vide Ex.-P/9. Thereafter, the offence was registered after lodging the of the FIR by ASI Narendra Kumar Tripathi (PW-8). After completion of the investigation the charge sheet was filed before the concerned Court.

3. The appellant was charged with offence under Section 22 of the N.D.P.S. Act, to which he denied and prayed for trial.
4. On completion of the prosecution evidence, the appellant was examined under Section 313 of the CrPC in which he denied all the incriminating evidence brought against him by the prosecution, pleaded innocence and false implication. No witness was examined in defence.
5. On completion of the trial, the impugned judgment was passed in which the appellant has been convicted and sentenced as aforementioned.
6. It is submitted by the counsel for the appellant that the no case is made out for conviction of the appellant, according to the evidence present in this case. In the alternative, it is prayed that if the Court is not convinced to allow the appeal and acquit the appellant, then his sentence may be reduced to the period of imprisonment already undergone by him in jail as he is in jail since 07-04-2011 and he has undergone the sentence of imprisonment about more than 7 years.

7. Per contra, learned counsel for the State opposes the grounds raised in the appeal and the submission made by learned counsel for the appellant submits that the prosecution has proved its case beyond reasonable doubt.
8. Heard learned counsel for the parties and perused the record of the trial Court.
9. Considered on the evidence present in the record of the trial Court and I do not find any error in the finding of the conviction against the appellant as held by the trial Court, therefore, finding of conviction against the appellant needs no interference.
10. Considered on the prayer of reduction of sentence of the appellant. As there is no mention of criminal history of this appellant and the quantity of the brown sugar seized from his possession is though more than small quantity, but less than commercial quantity, hence, the sentence imposed upon him can be reduced accordingly.
11. Therefore, on the basis of this conclusion, this appeal is allowed in part. Conviction against the appellant in the impugned judgment is maintained, whereas, the sentence of imprisonment imposed upon him is reduced to the sentence for R.I. for the period of imprisonment already undergone by him in jail with fine of Rs. 25,000/-, in default of payment of this fine amount, the appellant shall have to undergo further R.I. for three months.
12. The appeal stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge