

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 581 of 2002**

Suresh Kumar Dubey S/o Jamuna Prasad Dubey, aged about 32 years R/o Masjidpara Kota Police Station, Kota (Kargi Road) District- Bilaspur (C.G.).

-- Appellant**Versus**

State of Chhattisgarh, Through Police Station- Kota (Kargi Road), District- Bilaspur (C.G.).

---- Respondent

For Appellant	:	Mr. Shailendra Dubey, Advocate
For Respondent	:	Mr. Satish Gupta, Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board**31/07/2018**

1. This appeal is directed against the judgment dated 07/05/2002 passed by the Special Judge (NDPS), Bilaspur in Sessions Case No. 5/2001 convicting and sentencing the appellant as under:-

<u>Conviction</u>	<u>Sentence</u>
Under Section 20 B (1) of NDPS Act.	RI for 3 years with fine of Rs. 10,000/- with default stipulation.

2. Facts of the case, in brief, are that on 21/11/2000 at about 10:15 am, ASI- R.N. Tiwari received an information from the informant to the effect that Suresh Dubey i.e. present applicant had stored illegal Ganja in his house and is selling it. He recorded the said information and informed about the same to SDO, Kota. Thereafter, he along with

independent witness and police staff went to the house of the applicant and searched his house. Total 12.5 kg illegal Ganja was found. After completing the necessary formalities, he prepared the necessary documents and they returned to the police station and recorded the FIR. After investigation, a charge-sheet under Section 20 B (I) of the NDPS Act was filed. Charges were framed under the above Section.

3. To prove the guilt of the appellant, the prosecution has examined as many as 9 witnesses. No defence witness was examined. Statement of accused/appellant under Section 313 Cr.P.C was recorded, wherein, he denied the charge, pleaded his innocence and false implication in the matter.
4. After trial, the trial Court has convicted and sentenced the appellant as mentioned in the first paragraph of this judgment. Hence, this appeal.
5. Learned Counsel appearing on behalf of appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. It is further submitted that the matter is of the year 2000, the appellant is facing this lis since 18 years and out of total jail sentence of 3 years, he has undergone about 1 year 8 months, therefore, the sentence awarded to him may be reduced to the period already undergone by him.
6. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
7. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.

8. Considering the above facts and circumstances, particularly considering that out of total jail sentence of 3 years, the appellant has undergone about 1 year 8 months, he is facing this *lis* since 2000 and after 18 years no fruitful purpose would be served to again send him in jail, I am of the considered opinion that the ends of justice would be met if, while upholding the conviction imposed upon him, the jail sentenced awarded to him is reduced to the period already undergone by him.
9. Consequently, the appeal is partly allowed. The conviction imposed upon the appellant is affirmed and the jail sentence awarded to him is reduced to the period already undergone by him. The fine sentence is also affirmed. The appellant be released forthwith, if not required in any other case.
10. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge