

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 495 of 2002**

Santosh Kumar S/o Shesh Narayan Sahu, aged about 30 years R/o Poni, P.S. Dharseeva, Distt. Raipur (C.G.).

---- Appellant**Versus**

State of Chhattigarh

---- Respondent

For Appellant	:	Mr. Jai Prakash Shukla, Advocate
For Respondent	:	Mr. Amit Verma, PL

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****04/12/2019**

1. This appeal has been preferred against the judgment dated 18/03/2002 passed in Special Criminal Case No. 48/2001 by the Special Judge, (NDPS) Raipur (C.G.), whereby the Appellant has been convicted under Section 20 (B) (I) - (8) of the NDPS Act and sentenced to undergo RI for 3 years and to pay fine of Rs. 3000/- with default stipulation.
2. Facts of the case are that on 07/10/2001 on the basis of information received from the informant, the Investigating Officer reached to the spot and searched the Appellant. On being searched totak 8 KG of contraband (Ganja) was seized from his possessions. He prepared two sample packets each of 30 grams on the spots. After completing other formalities, he returned to the police station, he deposited entire

seized articles and sample packets in Malkhana. He obtained acknowledgement from Malkhana. Sample packets were sent for its examination. The FSL report is positive. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges. As many as 7 prosecution witnesses have been examined. No defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C has been recorded, wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that the Appellant has undergone about 1 year out of total jail sentence of 3 years, he has no criminal antecedent, he is facing the *lis* since 2001, therefore, he prays that the jail sentence awarded to the Appellant may be reduced to the period already undergone by him.
5. 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.
6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. Considering the above facts and circumstances of the case, particularly considering that out of total jail sentence of 3 years, the Appellant has undergone about 1 year, he is facing the *lis* since 2001

and there is no criminal antecedent against him, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellant, the jail sentenced awarded to him is reduced to the period already undergone by him and the fine sentence imposed upon him under Section 20 (B)(I)-(8) of the NDPS Act is enhanced to Rs. 30,000/-. Ordered accordingly. The fine amount imposed today shall be payable within 2 months from the date of receipt of a copy of this order. In default of payment, the Appellant shall be liable to undergo RI for 6 months. If any amount towards fine has already been paid, the same shall be adjusted in the fine amount imposed/enhanced today.

8. Consequently, the appeal is partly allowed to the extent indicated above.
9. It is reported that the Appellant/accused is on bail. His bail bond is not discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.
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