

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 346 of 2002**

Mahadev Prasad Mishra S/o Mahesh Prasad Mishra, Aged about 42 years,
Occupation Agriculturist R/o village Khamhariya, Police Station Baikunthpur,
Distt. Rewa (M.P.) (Now Chhattisgarh)

---- Appellant**Versus**

State of Chhattisgarh

---- Respondent

For Appellant	:	Mr. Avinash K. Mishra, Advocate
For Respondent	:	Ms. Shriya Mishra, PL

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****26/11/2019**

1. This appeal has been preferred against the judgment dated 22/02/2002 passed in Special Case No. 50/2001 by the Special Judge (C.G.), whereby the Appellant has been convicted under Section 20 (b) (1) of the Narcotic Drugs and Psychotropic Act, 1985 (henceforth 'the Act') and sentenced to undergo RI for 3 years and to pay fine of Rs. 10,000/- with default stipulation.
2. Facts of the case are that on 08/10/2001, Assistant Sub Inspector, D.P. Tiwari (PW2) received an information that one person who carrying Ganja is sitting on road. He called the witnesses and recorded the information in Rojnamcha Sanha. He prepared Mukhbir Suchna Panchnama and reached to the spot along with witnesses. He gave notice under Section 50 of the Act to the Appellant vide Ex.P-8 for his

personal search and also obtained consent vide Ex.P-8. Thereafter, he searched the Appellant who was carrying a gunny bag. On search, total 11.17 Kg Ganja was found. Two samples packets of 40 grams each was prepared. All articles were seized vide Ex.P-14. After completion of other proceeding, he returned to the police station along with the Appellant and recorded FIR Ex.P-17. He deposited the seized property in Malkhana and obtained acknowledgement Ex.P-18. Sample packets were sent to Forensic Science Laboratory. The report is positive. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges under Section 20 (b) (1) of the Act. As many as 6 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 8 months out of total jail sentence of 3 years, he has no criminal antecedent and 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 8 months, 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.
8. Consequently, the appeal is partly allowed. The conviction of the Appellant under the aforementioned section is affirmed and he is sentenced to the period already undergone by him. The fine sentence is affirmed.
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