

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Reserved on 11-3-2019****Delivered on 12-3-2019****CRIMINAL APPEAL No. 766/2001**

(Arising out of judgment of conviction and order of sentence dated 6-8-2001 passed by Special Judge, Ambikapur Sarguja constituted under Narcotic Drugs and Psychotropic Substances Act, 1985 in Special Case No. 19/2000)

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Vinod Kumar S/o. Ramdulare Dubey, aged 28 years, caste Brahman, occupation Security Guard, R/o. Village Bartikhurd, P.S. Chalgali, distt. Sarguja (CG)

----Appellant**-Versus-**

State of Chhattisgarh, through S.O., Chalgali, Distt. Sarguja (CG)

----Respondent

For appellant : Shri Sameer Singh, Adv.

For State : Shri S.R.J. Jaiswal, PL

Hon'ble Shri Sharad Kumar Gupta, Judge

CAV JUDGMENT

1. In this criminal appeal challenge levied is to the judgment of conviction and order of sentence dated 6-8-2001 passed by Special Judge, Ambikapur Sarguja constituted under Narcotic Drugs and Psychotropic Substances Act, 1985 (in brevity 'NDPS Act') in Special Case No. 19/2000 whereby and whereunder he convicted the appellant for the offence punishable u/s 20(b)(i) of the NDPS Act and sentenced him to undergo RI for 1 year and to pay fine of Rs. 1,000/-, in default of payment of fine, to further undergo additional RI for 3 months.

2. In brief, case of the prosecution is that on 25-5-2000 at about 9.30 am on the road leading from village Fulidumar to Wadrafnagar, S.H.O. of P.S. Basantpur after completing some formalities seized 150 grams cannabis from the possession of the appellant. After completing the investigation a charge sheet was filed against him. Trial Court framed charge against him under Section 20(b) of the NDPS Act. He abjured the charge and faced trial. After conclusion of the trial, Trial Court convicted him as

aforesaid.

3. Being aggrieved, the appellant has preferred this criminal appeal.

4. Counsel for the appellant at the outset urged that he is not challenging the conviction of the appellant rather he is challenging only the aforesaid period of sentence of RI.

5. The Panel Lawyer appearing for the State argued that aforesaid RI is just and proper and does not call for any interference.

6. At the time of the incident, no minimum imprisonment was provided for the offence punishable under Section 20(b)(i) of the NDPS Act. The appellant has remained in jail for about 4 months. About 18 years have passed after the incident. At the time of incident, he was aged about 28 years, now he is about 46 years old. Now he is in mainstream of society. Sending him to jail would disturb his life as well as his family members' life. Hence, no useful purpose would be served if he is sent to jail after 18 years of the incident. Looking to these circumstances and observation made by Hon'ble Supreme Court in the matter of **Manjappa -v- State of Karnataka** [(2007) 6 SCC 231] I am of the opinion that cause of justice would be sub-served, if RI of 1 year is reduced to the sentence for the period already undergone by him.

7. Consequently, the appeal is partly allowed. The sentence of the appellant for RI for 1 year is reduced to the period already undergone by him and the fine sentence is affirmed, in default of payment of fine, to further undergo RI for 3 months.

8. The appellant is reported to be on bail. His bail bond stands shall continue for a further period of six months as per requirement of Section 437-A, Cr.P.C.

Sd/-
(Sharad Kumar Gupta)
Judge