

**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Appeal No. 130 of 2011**

Banshi Mandavi S/o Shri Shankar Mandavi, aged about 36 years Occupation Labour R/o Kosanagar, Bhilai, P.S. Supela, District Durg (C.G.)

---- Appellant

**Versus**

State of Chhattigarh Through Police Station Abkari Bhilai, Vritta Kramank 1, District Durg (C.G.).

---- Respondent

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| For Appellant  | : | Mr. C.P. Soni, Advocate |
| For Respondent | : | Mr. Amit Verma, PL      |

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Hon'ble Shri Justice Arvind Singh Chandel

**Order on Board**

**13/09/2019**

1. This appeal has been preferred against the judgment dated 31/01/2011 passed in NDPS Special Case No. 12/2010 by the Special Judge, (NDPS Act), Durg (C.G.), whereby the Appellant has been convicted under Section 20 (b) (ii) (B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and sentenced to undergo RI for 6 months and to pay fine of Rs. 3000/- with default stipulation.
2. Facts of the case are that on 11/05/2010, R.P. Mishra (PW8) Excise Sub Inspector received an information from the informant to the effect that the Appellant is engaged in selling liquor. He, after completing necessary formalities reached to the house of the Appellant. On being searched, the Appellant was found in possession of Ganja weighting 3.2 Kg which was kept in yellow plastic bag. Other formalities were

completed and thereafter offence has been registered. After completion of investigation, a charge-sheet has been submitted. Trial Court framed the charge under Section 20 (b) (ii) (B) of the NDPS Act. As many as 8 prosecution witnesses have been examined. No defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C was 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 2 months during trial and 10 days after the judgment of the Appellate Court, he has no criminal antecedent and he is facing the *lis* since 2010, 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 6 months, the Appellant has undergone about 2 months 10 days, he is facing the *lis* since 2010 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 under Section 20 (b) (ii) (B) of the NDPS Act is enhanced to Rs. 10,000/-. Ordered accordingly. The enhanced amount of fine shall be payable within 1 month from the date of receipt of a copy of this order. In default of payment, the Appellant shall be liable to undergo RI for 3 months. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine 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