

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 188 of 2011**

Guman Prasad Chandel S/o Shri Derha Ram Chandel, aged about 35 years, Caste Satnami R/o Village Pauvada, P.O. Pahda Thana Ranchirai, Distt. Durg (C.G.).

---- Appellant

Versus

State of Chhattigarh Through Police Chowky Bakaband, Police Station Nagarnar, Distt. Bastar (C.G.).

---- Respondent

For Appellant	:	Mr. Sanjay Agrawal, Advocate
For Respondent	:	Ms. Smriti Shrivastava, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

16/09/2019

1. This appeal has been preferred against the judgment dated 04/12/2010 passed in Special Case No. 28/2009 by the Special Judge, (NDPS Act), Jagdalpur (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 2 ½ years and to pay fine of Rs. 2000/- with default stipulation.
2. Facts of the case are that on 07/10/2009, Santosh Singh (PW9) ASI received a secret information that some unknown persons were coming towards Udiyapal from Manjhi on one scooter bearing registration no. CG07 ZL 6439 and they were possession Ganja. He recorded the above information and after completing necessary

formalities reached to the spot, where he found that the Appellant was going on the said scooter. On being searched, the Appellant was found in possession of Ganja weighting 7 Kg which has been seized from his possession. 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 9 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 18 months out of total jail sentence of 2 ½ years, he has no criminal antecedent and he is facing the *lis* since 2009, 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 2 ½ years, the Appellant has undergone about 18 months, he is facing the *lis* since 2009 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 Section 20 (B)(ii) (B) of the NDPS Act is upheld 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