

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 252 of 2009

Ramdhan Kahra, s/o- Bhojoram Kahra, Aged about-45 years,
R/o- Village Kahra Mohalla, Navagarh, P.S. Navagarh, District-
Janjgir-Champa(C.G.) **---- Appellant**

Versus

State of Chhattisgarh, Through-P.S. Navagarh, Distt.-Janjgir-
Champa (C.G.) **---- Respondent**

For appellant in	- Mr. Ravindra Sharma, Advocate
For State/Respondent	- Mr. Aman Kesharwani, P.L.

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment On Board

04/12/2019

1. This appeal arises from a judgment dated 16th March, 2009 passed by Special Judge(N.D.P.S. Act) Janjgir-Champa(C.G.) in Special Criminal Case No. 13/2008 wherein the said Court convicted the appellant for charge under Section 20-B(II)(B) of Narcotic Drugs and Psychotropic Substances Act, 1985 and sentenced to undergo R.I. for 3 years and fine of Rs.5000/- with default stipulations.
2. In the present case, appellant/accused convicted in respect of having possession of contraband article Ganja to the tune of 3.100 kgms. for transport on 8th August 2008 at about 9:40 a.m. near Nawagarh Canal Bridge, as per version of Inspector-P. Toppo (PW-7) he received information from *Mukhbir* that appellant is coming in his motorcycle Boxer bearing registration No. C.G. No. 11-1155 with contraband article Ganja. The said information was recorded and two independent witnesses were called and information was sent to the concerned Superintendent of Police as per Ex.P-1. Again, he sent information regarding immediate search as per

provision of N.D.P.S. Act, Section 42 complied with, when he reached to the spot, the appellant was found coming in motorcycle, this witness informed to the appellant about his right regarding search and seizure by Magistrate or Gazzeted officer, after that the said appellant gave his consent to the searching officer. On search one bag was found from his motorcycle which was seized, weighing the seized article it was found 3.100 Kgms. Thereafter, two samples of 50-50 Gm each were prepared from the seized article. The two sealed articles and sample were handed over to the in-charge of Malkhana. As per Ex.P-36 samples were sent to the Forensic laboratory and as per report of laboratory Ex.P-39, the seized article was found to be Ganja. Version of this witness is unrebutted during cross examination and it is further supported by the version of Assistant Sub inspector Kirtan Lal (PW-1) who received information in the office of Sub Divisional Officer (Police) on 8th August, 2008. Constable Dhananjay (PW-2) deposed that he submitted all the samples at forensic laboratory on 12th August 2008 and received acknowledgment receipt as per Ex.P-3.

3. From the statement of Head Constable-Lalit Kumar Keskar (PW-6), it is established that he was in-charge of Malkhana at police station Nayagarh and received seized article from police inspector and gave acknowledgment receipt. Sample was sent to laboratory for examination by him. He further produced the records and documents which are exhibited as Ex.P-24 to Ex.P-32.

4. From the entire evidence, it is clear that provision of section 50 of NDPS Act regarding supply of information regarding and right of appellant is served to him. Again property was kept in Malkhana as per provision of under Section 55 of the NDPS Act, 1985 and information regarding search was sent to the higher authority as per section 57 of the said Act.
5. From the evidence, It is proved that the appellant was in possession of 3.100 kgms Ganja which is an offence punishable under Section 20-B (1) (B) of Narcotic Drugs and Psychotropic Substances Act, 1985. Therefore, conviction of the appellant is hereby affirmed.
6. The appellant has suffered jail term from 3rd August, 2008 to 16th March, 2009 and from the 16th March, 2009 to 19th June, 2009 and he has suffered jail term of about 10 months. Considering the facts and circumstances of the case, this Court is of the opinion that ends of justice would be served if the jail sentence imposed by the Trial Court is reduced to period already undergone by the appellant. However, fine sentence imposed by the Trial Court shall remain intact.
7. With this modification, this appeal is partly allowed.

Sd/-
(Ram Prasanna Sharma)
Judge