

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 411 of 2011**

Smt. Ganga Bai Rajput, aged about 45 years W/o Kailash Rajput, Occupation Labour, R/o Makeswar Ward, Dhamtari, P.S. City Kotwali Dhamtari, Distt. Dhamtari (C.G.)

---- Appellant

Versus

State of Chhattigarh Through P.S. City Kotwali, Dhamtari, Distt. Dhamtari (C.G.).

---- Respondent

For Appellant	:	Mr. C.R. Sahu, Advocate
For Respondent	:	Mr. Ajay Kumbrani, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

16/09/2019

1. This appeal has been preferred against the judgment dated 13/05/2011 passed in Special Case No. 07/2010 by the Special Judge, (NDPS Act), Dhamtari (C.G.), whereby the Appellant has been convicted under Section 20 (ii) (B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and sentenced to undergo RI for 4 years and to pay fine of Rs. 5000/- with default stipulation.
2. Facts of the case are that on 14/08/2010, Sub Inspector D.S. Netam received a secret information from the informant that the Appellant has kept Ganja in his possession for the purpose to sell the same. He recorded the said information and after completing necessary formalities reached to the spot, where the Appellant was found in possession of Ganja weighting 1.4 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 (ii) (B) of the NDPS Act. As many as 10 prosecution witnesses have been examined. One 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 14 months out of total jail sentence of 4 years, 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 4 years, the Appellant has undergone about 14 months, 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.

8. Consequently, the appeal is partly allowed. The conviction of the Appellant under Section 20 (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