

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 320 of 2018**

Ravindra Prasad Sahu S/o Bholu Sahu, aged about 22 years R/o Umapur,
Police Station Ramanujnagar, District Surajpur (C.G.).

----Appellant

Versus

State of Chhattisgarh Through Station House Officer, Police Station Surajpur,
District Surajpur (C.G.).

---- Respondent

For Appellant	:	Mr. Sunil Sahu, Advocate
For Respondent	:	Mr. Anand Verma, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

09/08/2019

1. This appeal has been preferred under Section 374 (2) of Cr.P.C against the judgment dated 25/01/2018 passed in CNR NO. CGSJ010002362017 by the Special Judge, NDPS Act, Surajpur, District Surajpur (C.G.) convicting the Appellant under Section 21 (B) (ii) (B) of the NDPS Act and sentenced him to undergo RI for 5 years and to pay fine of Rs. 20,000/- with default stipulation.
2. As per prosecution story, on 28/02/2017 on the basis of secret information received from the informant, the police official after following necessary formalities, searched the Appellant. On being searched, 20 numbers of CEREJACK injection, 25 numbers of Avil injections, 25 numbers of REXOGESIC injection and two old syringes have been seized from his possession. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges. As many as 11

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 out of total jail sentence of 5 years, the Appellant is in custody since 28/02/2017 and undergone about 2 years 6 months, he has no criminal antecedent, therefore, he prays that the sentence awarded to the Appellant may be undergone.
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, particularly that out of total jail sentence of 5 years, the Appellant is in jail since 28/02/2017 and there is no criminal antecedent of the Appellant, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellant, the jail sentence awarded to him is reduced to the period already undergone by him

8. Consequently, the appeal is partly allowed. The conviction imposed upon the Appellant under the aforementioned Section is upheld, however, the jail sentence awarded to him is reduced to the period already undergone by him. The fine sentence is affirmed.
9. It is reported that the Appellant is in jail. He be released forthwith, if not required in any other case.
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