

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 207 of 2011**

Karan Singh Dhuri S/o Hinchharam Dhuri, Aged about 42 years, Occupation Scrap Dealer R/o Makeswar Ward, Dhamtari, Police Station City Kotwali, Dhamtar, District Dhamtari (C.G.)

---- Appellant**Versus**

State of Chhattigarh Through Station House Officer, Police Station City Kotwali, Dhamtari, District Dhamtari (C.G.).

---- Respondent

For Appellant	:	Mr. Ajay Chandra, Advocate
For Respondent	:	Ms. Smriti Shrivastava, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**24/09/2019**

1. This appeal has been preferred against the judgment dated 01/03/2011 passed in Special Case No. 08/2010 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 5 years and to pay fine of Rs. 10000/- with default stipulation.
2. Facts of the case are that on 14/08/2010 at about 7:30 pm, on the basis of information received from an informant, Sub Inspector D.S. Netan, after completion of all the formalities, reached to the spot and found the Appellant in possession of 1.7 Kg contraband (Ganja) which the Appellant had kept in a plastic bag. Sample packets were

prepared and other formalities were completed. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges. Statement of the witnesses under Section 161 of the Cr.P.C have been recorded. 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 7 months 15 days out of total jail sentence of 5 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 5 years, the Appellant has undergone about 7 months 15 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 (ii) (B) of the NDPS Act is enhanced to Rs. 50,000/-. 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 6 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