

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 466 of 2011**

Radheshyam Pandey S/o Shri Kailash Pandey, aged about 32 years R/o Village Maranchi, District Patna (Bihar), Presently R/o Rampur, Chowki Rampur, P.S. Kotwali Korba, District Korba (C.G.)

---- Appellant

Versus

State of Chhattigarh Through District Magistrate, Korba, District Korba (C.G.).

---- Respondent

For Appellant	:	Mr. T.K. Nande, Advocate appears on behalf of Mr. Sourabh Sharma, Advocate
For Respondent	:	Ms. Smriti Shrivastava, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

24/07/2019

1. This appeal has been preferred against the judgment dated 15/06/2011 passed in Special Criminal Case No. 06/2007 by the Special Judge (Narcotic Drugs and Psychotropic Substances, Act), Korba, whereby the Appellant has been convicted under Section 20 (B) of the Narcotic Drugs and Psychotropic Substances Act, 1985.
2. Facts of the case are that on 12/08/2004 Sub Inspector Amrit Lal Kerketta (PW7) received an information from the informant that the Appellant is trying to sale Ganja and he is in Hotel Chandela. After completing all necessary proceedings, he reached to the spot along with his staff. After obtaining necessary consent under Section 50 of the NDPS Act, a search has been made and total 2 Kg Ganja has

been seized from the possession of the Appellant. Two samples packets were prepared on the spot. Other formalities have been completed. After returning to the police station, FIR has been recorded. The Ganja and the samples packets were deposited in *Malkhana*. Later on, the samples packets were sent for Forensic Science Laboratory. After completion of investigation, a charge-sheet has been filed. Charges under Section 20 (b) of the NDPS Act has been framed. Total 7 prosecution witnesses have been examined. No defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C has been recored, 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. The Appellant is first offender. He further submits that out of total jail sentence of 2 years, he has already undergone about 281 days during trial and 15 days after the judgment of the Appellate Court. He is facing the *lis* since 2004, 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 years, the Appellant has undergone about 286 days, he is facing the *lis* since 2004 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 (b) of the NDPS Act is enhanced to Rs. 30,000/-. Ordered accordingly. The enhanced amount of fine shall be payable within 2 months 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