

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1009 of 2002**

Timotiyo S/o Eliyo Mahara, aged about 33 years Occupation Riksha Puller, R/o Motipur, P.S. Kotpad (Orissa) At present R/o Panarapara, Jagdalpur, P.S. Kotwali, Jagdalpur, Distt. Jagdalpur (C.G.).

---- Appellant

Versus

State of Chhattigarh through P.S. Kotwali, Jagdalpur, Distt. Jagdalpur (Bastar) (C.G.).

---- Respondent

For Appellant	:	Mr. Subhash Yadav, Advocate
For Respondent	:	Ms. Smriti Shrivastava, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

13/11/2019

1. This appeal has been preferred against the judgment dated 28/03/2002 passed in Special Criminal Case No. 52/2001 by the Special Judge (Narcotic Drugs and Psychotropic Substances, Act), Jagdalpur, whereby the Appellant has been convicted under Section 20 (1) (6) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and sentenced to undergo RI for two years and to pay fine of Rs. 3000/- with default stipulation.
2. Facts of the case are that on 23/09/2001 at about 1:15 in the mid night, Sub Inspector Narayan Ottihas had received an information that one person was going through old bridge of Asona to Jagdalpur with Ganja for the purpose to sell it. He along with his staff and witnesses

reached to the spot and searched the Appellant. The Appellant was found in possession of 5 Kg contraband (Ganja), which was seized. After completion of mandatory formalities, he returned to police station with the Appellant and lodged FIR. The Ganja was deposited in Malkhana. Sample packets were sent for chemical examination. The samples packets were found positive. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges. As many as 4 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 out of total jail sentence of 2 years, he has already undergone about 16 months 14 days. He is facing the *lis* since 2001, 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 16 months 14 days, he is facing the */is* since 2001 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 the aforementioned Section is affirmed 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