

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 18 of 2011**

Smt. Savita Gond W/o Gyani Gond, Aged about 28 years, Occupation Housewife R/o Vill. Redakhol, Thana Redakhol, Distt. Sambalpur (Orissa)

----Appellant

Versus

State of Chhattisgarh Through Station House Officer, Kunkuri Distt. Jashpur (C.G.).

---- Respondent

For Appellant	:	Mr. Srikant Kaushik, Advocate
For Respondent	:	Mrs. Smriti Shrivastava, PL

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

16/07/2019

1. This appeal has been preferred under Section 374 (2) of Cr.P.C against the judgment dated 26/10/2010 passed in Sessions Case No. 08/2009 by the Special Judge, NDPS, Jashpur (C.G.) convicting the Appellant under Section 20 (B)(2)(B) of the Narcotic Drugs and psychotropic Substances Act, 1985 and sentenced him to undergo RI for 2 years and to pay fine of Rs. 10000/- with default stipulation.
2. As per prosecution story, on 08/08/2009 Station House Officer Karmu Sai Painkara (PW11) had received a secret information that the Appellant was having Ganja in her possession. The necessary information was provided to the official by him. He reached the spot along with his staff. On being search total 5 kg Ganja was found, which has been seized from the Appellant before the independent witnesses. After completing other formalities on the spot, the Appellant was brought

to the police station and FIR has been registered. The Ganja was submitted in the Malkhana. Sample packets were sent to Forensic Science Laboratory for its examination. The report of FSL is positive. After completion of investigation, a charge-sheet was filed. Charges were framed. 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 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 quantity of seized Ganja is only 5 Kg which does not come under the purview of commercial quantity. The Appellant has undergone about 18 months out of total jail sentence of 2 years, the fine has already been deposited by him and there is no criminal antecedent of the Appellant, therefore, the jail sentence awarded to him 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, particularly that out of total jail sentence of 2 years, the Appellant has undergone about 18 months 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.
9. It is reported that the Appellant 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 light of Section 437-A of the 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