

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No.1952 of 2019

State of Chhattisgarh through Police Station Lalpur, District Mungeli,
Chhattisgarh

---- Petitioner

versus

Ramnath Yadav, son of Shri Tijau Yadav, aged about 50 years, resident of
Piparkhunta, Police Station Lalpur, District Mungeli, Chhattisgarh

--- Respondent

For Petitioner	:	Shri Alok Nigam, Govt. Advocate
For Respondent	:	None

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

17.9.2019

1. Heard on I.A. No.1 for condonation of delay in filing the instant application (Cr.M.P.). For the reasons stated in I.A. No.1, it is allowed and delay of 103 days is condoned.
2. Also heard on admission. Perused the material available.
3. Vide impugned judgment dated 25.1.2019 passed by the Special Judge under the Narcotic Drugs and Psychotropic Substances Act (henceforth 'the Act'), Mungeli in Special Criminal Case No.3 of 2018, the Respondent has been acquitted of the charge framed under Section 20(a)(i) of the Act.
4. Allegedly, the Respondent had planted two plants of Ganja in a fence and those Ganja plants were seized from his possession. The Trial Court acquitted him on the ground that the fence from which the Ganja plants were recovered and seized was found to be in exclusive possession of the Respondent is not established. In this regard, from perusal of the statements of the witnesses, it reveals that Constable Mahendra Singh (PW3) has admitted the

fact that the fence from which the Ganja plants were seized was an open area. He has also admitted the fact that in the house which was situated adjacent to the fence in question, wife and two children of the Respondent were also residing. Patwari Chandra Kumar (PW5) has also admitted the fact that the fence in question is a government land. There is no documentary evidence available on record to show that the fence in question was in exclusive possession of the Respondent or he was the sole owner of the said fence. In these circumstances, the Trial Court, on the basis of the evidence available on record, has rightly arrived at the conclusion that the fence in question was not in exclusive possession of the Respondent nor was he sole owner of the said fence. Thus, the Trial Court has rightly acquitted the Respondent.

5. I find no substance in the instant application for grant of leave to appeal. The application (Cr.M.P.) is, therefore, dismissed at the admission stage itself.

Sd/-
(Arvind Singh Chandel)
Judge