

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1741 of 2018**

Smt. Shanti Turiya, W/o Krishnalal, Aged about 23 years, R/o Village Beldagi, Pandopara, PS Lakhanpur, District Surguja (C.G.).

----Appellant

Versus

State of Chhattisgarh through PS Ambikapur, Distt. Surguja (C.G.).

---- Respondent

For Appellant	:	Mr. Jitendra Shrivastava, Advocate
For Respondent	:	Mr. K.K. Dewangan, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

04/07/2019

1. This appeal has been preferred under Section 374 (2) of Cr.P.C against the judgment dated 31/10/2018 passed in Special Criminal Crime No. 17/2017 by the Special Judge (NDPS) Act, 1985, Ambikapur (C.G.) convicting the Appellant under Section 20 (B) (ii) (B) of the Narcotics Drug and Psychotropic Substances Act, 1985 and sentenced him to undergo RI for 2 years and to pay fine of Rs. 20,000/- with default stipulation.
2. As per prosecution story, on 20/07/2017 on the basis of information received from the informant, Sub Inspector Rajendra Prasad Singh (PW6) after following the mandatory provisions of the Act, reached to the spot and on being searched total two packets of contraband (1.966 Kg) was seized from the possession of the Appellant. Sample packets were prepared vide Ex.P-12 and the same was seized vide Ex.P-23 and Ex.P-24. Inquest was prepared. After returning the police station, FIR has

been lodged. After investigation, a charge-sheet was filed and charges were framed. To prove the guilt of the Appellant, as many as 8 prosecution witnesses have been examined. Statement of the Appellant under Section 313 of the Cr.P.C was also 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, the Appellant has undergone about 8 months and 28 days during trial and after passing the judgment of the trial Court, he is in custody since 31/10/2018, 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 8 months and 28 days during trial and after passing the judgment of the trial Court, he is in custody since 31/10/2018, 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. The fine sentences imposed upon him is affirmed. The Appellant is directed to pay fine sentence within 1 month from today. In default of payment, the Appellant shall be liable to undergo RI for 3 months.
9. The Appellant be released forthwith, if not required, in any other case.
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