

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 42 of 2020

Chain Das S/o Chhedu Das Panikar Aged About 67 Years R/o Adarsh Nagar,
Chunchuni Colony, Quarter No. M-1219, Police Station Kusmunda, Civil And
Revenue District Korba Chhattisgarh

---- Appellant

Versus

State of Chhattisgarh Acting Through Officer-In-Charge, Police Station
Kusmunda, Civil & Revenue District Korba Chhattisgarh

---- Respondent

For Appellant	:	Mr. Devesh G.Kela, Advocate.
For State/Respondent	:	Mr. Alok Nigam, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

14.08.2020

1. The matter is heard through Video Conferencing.
2. This appeal has been preferred against the judgment dated 30.11.2019 passed in Special Criminal (NDPS) Case No.27/2018 by the learned 1st Additional Sessions Judge/Special Judge (under N.D.P.S Act), Korba (C.G.) wherein, the Appellant has been convicted for the offence punishable under Section 20 (b) (ii) (B) of Narcotic Drugs Psychotropic Substances Act and sentenced to undergo R.I. for 04 years and to pay fine of Rs.3,000/-, with default stipulation.
3. According to the case of prosecution, on 06.09.2018, Vijay Chelak, Inspector of Police Station Kusmunda, Korba (PW-06) received an information from informant that two persons are standing near

Adarsh Nagar Kusmunda Colony near Chunni Bazar on a Scooty bearing Registration No. CG 12 AT 7027 for selling contraband article (Ganja). He recorded the above information in Rojnamcha Sanha and prepared Mukhbir Suchna Panchnama in presence of the witness. He also informed about this information to the higher officials, thereafter he reached the spot along with the witness. In compliance of Section 50 of the N.D.P.S. Act, he gave notice to the Appellant and obtained his consent for search. On being searched, total 1.650 Kgs. of contraband *Ganja* was found from his possession. He seized the above contraband *Ganja* and prepared two sample packets of 100 grams each and after completion of other formalities he returned to the police station along with the seized property and the Appellant, then he recorded the FIR and deposited the seized property in Malkhana thereafter, sample packets were sent for examination to the FSL. After completion of investigation, charge-sheet was filed by the police. To robe the Appellant in the crime-in-question prosecution examined as many as total 07 witnesses. In the statement of Appellant recorded under Section 313 of Cr.P.C, Appellant pleaded his innocence and false implication in the matter, however no defence witness was examined by the Appellant. After completion of trial, Trial Court convicted and sentenced the Appellant as mentioned in Para 01 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 04 years of jail sentence the Appellant has undergone about two years, he has no criminal antecedent and he is facing the *lis* since 2018, i.e.

for about 02 years. Therefore, the jail sentence awarded to the Appellant may be reduced to the period already undergone by him.

5. On the contrary, learned State Counsel opposed the appeal and supported the impugned judgment.
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 04 years, the Appellant has undergone about 2 years, he is facing the /is since 2018 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 sentence 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 is in jail, he 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