

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 759 of 2010

Ramkripal Patel S/o Nandkishore Patel, aged about 60 years,
Occupation: Cultivation, R/o Village: Patihari, P.S: Chorhat, District:
Sidhi (M.P.)

---- Appellant

Versus

State of Chhattisgarh through the District Magistrate, Dhamtari (C.G.)

---- Respondent

For Appellant	:	Ku. Purnima Singh, Advocate
For State/Respondent	:	Mr. Alok Nigam, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

08.12.2020

1. This appeal has been preferred against the judgment dated 25.08.2010 passed in S.T. No. 01 of 2010 by the learned Special Judge (N.D.P.S), Dhamtari, (C.G.) wherein, the Appellant has been convicted under Section 20 (b) (ii) (c) of NDPS Act and sentenced to undergo R.I. for 10 years and to pay fine of Rs.1,00,000/- in default of payment of fine amount additional RI for 05 years.
2. According to the case of prosecution, on 19.02.2010, at 09:35 A.M., N.P. Chandrakar, Sub-Inspector, received an information from informant that one person aged about 60 years is carrying some contraband *Ganja* is near Hanuman Mandir at old Bus Stand, Dhamtari. 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 NDPS Act he gave notice to the Appellant and obtained his consent for search. On being searched, total 35 Kg of contraband Ganja was found from the possession of the Appellant. He seized the above contraband ganja, prepared sample packets 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 the sample packets were sent for examination to the FSL, from where the report confirmed that the property was contraband Ganja. 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 09 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.

3. Learned Counsel appearing for the Appellant submits that she does not want to press this appeal on merits and confines her argument to the sentence part only. She further submits that the Appellant has completed the entire jail sentence imposed upon him by the concerned Trial Court. Presently, the Appellant is aged about 70 years and is undergoing his default sentence of 05 years, he has no criminal antecedent and he is facing the *lis* since 2010.

Therefore, the default sentence awarded to the Appellant may be reduced.

4. On the contrary, learned State Counsel opposed the appeal and supported the impugned judgment.
5. I have heard learned counsel appearing on behalf of the parties and perused the record minutely.
6. Considering the above facts and circumstances of the case, particularly considering that the Appellant is old aged person who is aged about 70 years and has completed the entire jail sentence imposed upon him by the Trial Court, he is facing the *lis* since 2010 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 default sentence awarded to him is reduced to the period already undergone by him.
7. Consequently, the appeal is partly allowed. The conviction of the Appellant under the aforementioned section is affirmed and he is sentenced to the default period already undergone by him. The fine sentence is affirmed.
8. It is reported that the Appellant is in jail, he be released forthwith if not required in any other case.
9. 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