

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 600 of 2002**

Kumar Tandi, S/o Raghu Tandi, aged about 30 years, Occupation: Nil,
R/o Viiliajar, P.S- Komala, District-Nayapara (Orrisa)

Present address: Roopnagar, Uriya Mohalla, Kumhari, P.S-Purani
Bhilai, District-Durg (C.G.)

---- Appellant

Versus

State Of Chhattisgarh.

---- Respondent

For Appellant	:	Mr. Rahil Arun Kochar, Advocate
For State/Respondent	:	Ms. Smriti Shrivastava, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

27.01.2020

1. This appeal has been preferred against the judgment dated 06.05.2002 passed in Special Case No.29 of 2000 by the learned Special Judge (N.D.P.S) Durg (C.G.) wherein, the Appellant has been convicted under Section 8 (c) r/w Section 20 (B) (1) of NDPS Act and sentenced to undergo RI for 03 years and to pay fine of Rs.7,000/- with default stipulation.
2. According to the case of prosecution, on 04.12.2000 Sub Inspector S.P. Shukla received a secret information that the Appellant at Kumhari Udiya Basti, had illegally kept the Ganja with him. He recorded the above statement of the witness in Rojnamcha Sanha and prepared Muqbeer 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 and 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 3 gunny bags containing 14.50 Kg contraband Ganja was found from the possession of the Appellant. He seized the above contraband ganja and prepared three sample packets of 25 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 vide Exhibit-P/19 sample packets were sent for chemical examination to the FSL Raipur (C.G.) 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 06 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 he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that during trial the Appellant has undergone for about 516 days in jail and after the judgment of the Trial Court he has undergone 03 months in jail out of jail sentence of 03 years, he has no criminal antecedent and he is facing the *lis* since 2000, i.e., for about 19 years. Therefore, the jail sentence awarded to the Appellant may be reduced to the period already undergone by him.
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 out of total jail sentence of 03 years, the Appellant has undergone for about 516 days during trial and after the judgment of the Trial Court he has undergone for 3 months and that he is facing the *lis* since 2000 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.
7. 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.
8. 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