

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 639 of 2020

State of Chhattisgarh, Through Police Station- Bemetara, District- Bemetara (C.G.)

---- Petitioner

Versus

Akash Sharma, S/o Shrawan Sharma, Aged About 22 Years, R/o Ward No. 7 Behind Electricity Office, Ajay Sahu's Home, Thana- City Kotwali, District- Bemetara (C.G.)

---- Respondent

For State/ Petitioner : Mrs. Shubha Shrivastava, PL.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

12/03/2020

1. Heard on I.A. No. 01/2020, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in **(1996) 3 SCC 132**, the delay of 29 days in filing the petition is condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 30.10.2019 passed by Special Judge (NDPS Act), Bemetara, District-

Bemetara (C.G.) in Special (NDPS) Case No. 02/2018, wherein the said court acquitted the respondent for commission of offence under Section 20(b)(ii)(B) of the Narcotic Drugs & Psychotropic Substances Act, 1985 for having possession of contraband article ganja to the tune of 1kg. & 800 grams.

5. The trial court after evaluating the evidence recorded finding that though the investigating officer deposed before the trial court that the contraband article was not deposited in Malkhana but record of Malkhana was produced. The investigating officer admitted that in Malkhana Register (Ex.P/26) and acknowledgement (Ex.P/27) does not reveal regarding depositing of six samples of contraband article, therefore, it cannot be said that the samples which were prepared in the present case was sent to Forensic Science Laboratory and opinion of the Laboratory also cannot be used of the present case.
6. The trial court also recorded finding that it is not safe to record finding of conviction. The finding recorded by the trial court is one of the plausible view and it is settled law that if two views are possible, the view which is favourable to the accused/respondent, should be accepted. It is not a case where the trial court recorded finding on the basis of irrelevant or extraneous material placed on record. After going through the record, it is also not a case where any interference is required with the judgment of the trial court. It is also not a case where respondent should be called for hearing again for full consideration of this

petition. Accordingly, application for grant of leave to appeal is rejected.

7. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge

Arun