

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 873 of 2004

Banshi @ Lakhan Lal S/o Jakla Ram Nishad, aged about 21 years,
R/o Rajharra Camp Ahiwara, P.S: Nandani Nagar, District: Durg (C.G.)

---- Appellant

Versus

State Of Chhattisgarh through the District Magistrate Durg,
Chhattisgarh

---- Respondent

For Appellant	:	Ms. Indira Tripathi, Advocate
For State/Respondent	:	Ms. Hamida Siddiqui, Dy. A.G.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

19.06.2020

1. The matter is heard through Video Conferencing.
2. This appeal has been preferred against the judgment dated 21.08.2004 passed in Special S.T. No. 05 of 2004 by the learned Special Judge (N.D.P.S Act), Durg (C.G.) wherein, the Appellant has been convicted under Section 8 (c) r/w 20 (b) (2) (b) of NDPS Act, 1985 and sentenced to undergo RI for 02 years and to pay fine of Rs.5,000/- with default stipulation.
3. According to the case of prosecution, Rameshwar Pandey (PW-08) received a secret information from the informant that at Bus Stand Berla, present Appellant has kept some contraband article *Ganja* in a white bag. 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 4 Kg of contraband Ganja was found from the possession of the Appellant. He seized the above contraband ganja and prepared two sample packets of 50 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 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.

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 02 years of jail sentence the Appellant has undergone about 11 months, he has no criminal antecedent and he is facing the *lis* since 2004, i.e. for about 15 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 02 years of jail sentence the Appellant has undergone about 11 months, he is facing the /is since 2004 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. 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