

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.2071 of 2019**

The State Of Chhattisgarh Through District Magistrate District
Rajnandgaon Chhattisgarh.

---- **Petitioner****Versus**

Arun Kumar Baghel, S/o. Vishu Baghel, Aged about 24 years,
S/o. Bandhabazar, Police Station Ambagarh Chowki, Distt.
Rajnandgaon , Chhattisgarh

---- **Respondent**

For the petitioner/State : Shri Dinesh Tiwari, Dy. Govt. Advocate

Hon'ble Shri Justice Ram Prasanna Sharma**Order on Board****26.02.2020**

1. Heard on IA No.01/2019 for condonation of delay in filing the petition.
2. On due consideration of the reasons mentioned in the application, the same is allowed and the delay of 66 days in filing the petition is hereby condoned.
3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.
4. This petition has been preferred against judgment of acquittal dated 18.3.2019 passed by Special Judge under the Narcotic Drugs and Psychotropic Substances Act, 1985, (for short 'the Act 1985') Rajnandgaon (CG) in Special NDPS Case No.07/2017, wherein the

said Court acquitted the respondent for charges under Section 22(a) (i) of the Act, 1985 who was prosecuted on the ground that two plants of ganja were found in his kitchen garden.

5. In the present case, no document was produced before the trial Court that the land in question was in exclusive possession of the respondent. There is no evidence that the respondent took part in cultivation of the contraband ganja in any manner like sowing seeds or any other act for growing the plant. Some times the seeds are thrown by some one in the garden and it sprouts its own. Sprouting itself is not termed as cultivation of the contraband article.

6. The trial Court after evaluating the evidence, recorded finding that cultivation on the part of the respondent is not established. After going through the record, it is not a case where interference of this Court is required with the judgment of the trial Court. It is also not a case where the respondent should be called for full consideration of the case.

7 Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

Sd/-
(Ram Prasanna Sharma)
JUDGE