

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1309 of 2015**

- Mahesh Das Manikpuri, S/o Chandu Das Manikpuri, aged about 47 Years, R/o Bazaar Para, Near Pani Tanki, Kondagaon, P.S. Kondagaon, Distt. Kondagaon Bastar, Chhattisgarh, Civil And Rev. Distt. Kondagaon Bastar, Chhattisgarh.

---- Appellant**Versus**

- State of Chhattisgarh Through Police Station Arjuni, Distt. Dhamtari, Chhattisgarh.

---- Respondent

For Appellant	:	Mr. Santosh Bharat and Mr. Vikash A. Shrivastava, Advocates.
For Respondent/State	:	Mr. Roshan Dubey, P.L.

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****09/02/2021**

1. This appeal has been preferred against the judgment dated 7/9/2015 passed in Special Criminal Case No.10/2015 by the Special Judge (Narcotic Drugs and Psychotropic Substances Act, 1985), District Dhamtari, (C.G.), whereby the appellant has been convicted under Section 20 B (II) (b) of N.D.P.S. Act and sentenced to undergo R.I. for 10 years and to pay fine of Rs. 1,00,000/- with default stipulations.

2. According to the case of prosecution, on 14/2/2015 at about 4:45 a.m., during patrolling, Officer-in-Charge of the District Crime Branch, Dhamtari received a secret information that one person was travelling in a Bolero bearing registration No. C.G.-17-C-3226 with contraband article. Upon receiving such information, necessary procedures were followed and thereafter, police personnel reached the spot and stopped the said vehicle. On being searched, two plastic bags were recovered from back seat of the vehicle. After examination of the bags, 12.440 Kg of contraband *ganja* was recovered from the possession of the appellant. Thereafter, sample packets were prepared, seizures were made and other formalities were done. After completion of investigation, a charge-sheet was filed. The Trial Court framed the charges. To prove the guilt of the accused/appellant, prosecution has examined as many as 11 prosecution witnesses. No defence witness has been examined. Statement of the appellant under Section 313 of the Cr.P.C has been recorded, wherein he has pleaded his innocence and false implication in the matter.
3. After trial, the trial Court has convicted and sentenced the appellant as mentioned in paragraph one 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 quantity of the seized contraband articles is about 12.5 Kgs and the appellant has undergone more than six years out of total jail sentence of 10 years. He further submits that appellant is a poor villager and he has no criminal

antecedent. He is facing the *lis* for last six years and he is not capable to deposit the fine amount imposed upon him. Therefore, it is prayed that that the jail sentence awarded to the appellant may be reduced to the period already undergone by him and fine amount may also reduced.

5. Per contra, learned Counsel appearing for the State supports the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
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 quantity of the seized contraband article is about 12.5 Kgs and out of total jail sentence of 10 years, the appellant has undergone more than six years, he is facing the *lis* for last six years 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 him, the jail sentence awarded to him is reduced to the period already undergone by him. Ordered accordingly. Looking to the financial condition of the appellant, fine amount of Rs.1,00,000/- is reduced to Rs.30,000/-. It shall be paid within a period of one month from the date of receipt of this order. In default, appellant shall be liable to undergo R.I. for one year.
8. Consequently, the appeal is partly allowed to the extent indicated above.

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