

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 357 of 2007**

- Janki Bai, W/o Binod Kumar, Aged About 36 Years, R/o Vivekanand Bard, behind Narendra Medical Store, Mungeli, P.O. Mungeli, District- Bilaspur (C.G.).

---- Appellant**Versus**

- The State of Chhattisgarh, Through : P.S. Mungeli, District- Bilaspur C.G.

---- Respondent

For Appellant	:	Mr. Vikash Kumar Pandey, Advocate
For Respondent/State	:	Mr. Ishwar Jaiswal, P.L.

Hon'ble Smt. Justice Rajani DubeyOrder On Board by virtual hearing**12.08.2021**

1. Heard.

2. This appeal is preferred under Section 374(2) of the Code of Criminal Procedure, 1973 against the judgment dated 25.04.2007 passed by Special Judge (NDPS Act), Bilaspur (C.G.) in Special Case No. 28/2006, whereby the said court has convicted the appellant for commission of offence under Section 20(b)(ii)(B) of Narcotic Drugs & Psychotropic Substances Act, 1985 and sentenced him to undergo RI for 4 years and to pay fine of Rs. 1,000/- in default of payment further R.I. for 3 months.

3. As per case of the prosecution, on 08.09.2006, information was received by Inspector- Pramod Naidu (PW-4) posted at Police Outpost- Mungeli regarding illegal possession of contraband article ganja by the appellant. On the basis of secret information, police personnel intercepted and found the appellant in possession of contraband ganja which was weighed and it was found to be 13 KG. The matter was

investigated, charge-sheet was filed and after completion of trial, the appellant has been convicted and sentenced as mentioned above.

4. Leaned counsel for the appellant submits that the trial court has erred in accepting the uncorroborated testimony of the Investigating Officer. He further submits that the independent witnesses Kamal Kumar (PW-1) & Dileshwar Das (PW-2) have not supported the prosecution case. The trial court has not evaluated the evidence properly, therefore, the finding arrived at by the trial court is liable to be set aside.

5. *Per contra*, learned State counsel submits that the finding arrived at by the trial court is based on proper appreciation of evidence and, therefore, is not liable to be interfered with.

6. Heard learned counsel for the parties and perused the material available on record including the impugned judgment.

7. From evidence of Inspector- Pramod Naidu (PW-4), it is established that upon receiving the information and after complying with all the legal formalities, he intercepted and seized two polythene packets and weighed, it was found to be 13 KG. Spot-map was prepared vide Ex.P/13. The seized article was handed over to Head-Constable- Jogiram (PW-5) who was in-charge of Malkhana for safe custody. Thereafter, the seized article was sent for examination and test of ganja was found positive which is supported by report of State Forensic Science Laboratory (Ex. P/24). In view of the above, there is nothing on record to say that any provision of the Act, 1985 was flouted with, therefore, the argument advanced on behalf of the appellant is not sustainable.

8. The act of the appellant falls within mischief of Section 20(b)(ii) (B) of the Act, 1985 for which the trial court convicted the appellant and his conviction is hereby affirmed.

9. As regards sentence, keeping in view the facts that incident is said to have taken place in the year 2006, and thereby nearly 15 years have rolled by since then. The quantity of seized contraband article is

less than the commercial quantity. The appellant has already remained in jail for about 11 months and 11 days, therefore, I am of the opinion that ends of justice would be served, if her sentence is reduced to the period already undergone by her.

10. Accordingly, the appeal is partly allowed.

**Sd/-
(Rajani Dubey)
JUDGE**

R/-