

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 835 of 2001**

- Ghasiya alias Ghasi son of Daliyo aged 40 years, Cultivator resident of Panarapara Jagdalpur Distt. Bastar, (Chhattisgarh).

---- Appellant**Versus**

- State of Chhattisgarh Through : P.S. Nagarnar Distt. Jagdalpur, Chhattisgarh.

---- Respondent

For Appellant : Mr. Vivek Bhakta, Advocate.

For Respondent/State : Mr. Roshan Dubey, P.L.

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****15/02/2021**

1. This appeal has been preferred against the judgment dated 5/7/2001 passed in Special Criminal Case No.23/2001 by the Special Judge (Narcotic Drugs and Psychotropic Substances Act, 1985), Bastar, Place – Jagdalpur, (C.G.), whereby the appellant has been convicted under Section 20 (B) of N.D.P.S. Act and sentenced to undergo R.I. for one year and six months and to pay fine of Rs. 2,500/- with default stipulations.
2. According to the case of prosecution, on 30/03/2001 at about 10:45

a.m., G.S. Keshariya, Assistant-Sub-Inspector of P.S. Nagarnar received a secret information to the effect that a person is coming with *ganja* from Orissa to Nagarnar through Gudi Nala for sale of *ganja* in Jagdalpur. He recorded the information in Panchnama (Ex.P-2). Upon receiving such information, necessary procedures were followed and thereafter, he reached the spot alongwith witnesses and stopped the appellant. He searched the appellant and seized total 2.400 kgs of contraband *ganja* from his possession. 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 5 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 2.400 Kgs and the appellant has undergone 13 months out of total jail sentence of one year and six months. He further submits that appellant has no previous criminal antecedent and he is facing the *lis* since 2001, therefore, it is prayed that the jail sentence awarded to the appellant may be reduced to the

period already undergone by him.

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 *ganja* is about 2.400 Kgs, the appellant has undergone 13 months out of total jail sentence of one year and six months and he is facing the *lis* since 2001 and also, 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.
8. Consequently, the appeal is partly allowed. 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