

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 479 of 2021

- Santosh Jaiswal, S/o Late Chotelal Jaiswal, Aged about 40 years, R/o Ward No. 04, Bada Dafai, Nourojabad, District- Umariya, Madhya Pradesh.

---- Appellant

Versus

- State of Chhattisgarh, Through- The Police Station- Kota, District- Bilaspur, Chhattisgarh.

---- Respondent

For Appellant	:	Mr. Rajeev Kumar Dubey, Advocate.
For Respondent/State	:	Mr. H.S. Ahluwalia, Dy. A.G.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

08/07/2021

1. By the impugned judgment dated 18.03.2021 passed in Special NDPS Case No. 30/2017 by the learned Special Judge (N.D.P.S.), Bilaspur (C.G.), the Appellant has been convicted for the offence punishable under Section 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances (in short the "NDPS Act") Act, 1985 and sentenced to undergo rigorous imprisonment for 05 years, and to pay fine of Rs. 50,000/- with default stipulation.
2. According to the case of prosecution, on 15.08.2017, Inspector of Police Station- Belgahana Ravindra Mandavi (PW-12) along with Police personnels were checking vehicles. During checking of vehicles, a motor-cycle driven by the Appellant was stopped and on

being searched, it was found that the Appellant had carried two plastic bags containing total 20 Kgs. of contraband *Ganja* which has been seized from his possession. On the basis of above, FIR has been registered against the Appellant. 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 13 witnesses. In the statement of the Appellant recorded under Section 313 of Cr.P.C, the Appellant pleaded his innocence and false implication in the matter, however no defence witness was examined by the Appellant. After completion of trial, the Trial Court convicted and sentenced the Appellant as mentioned in Para one of this judgment. Hence, this appeal.

3. 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 the Appellant is in jail since 15.08.2017 and completed 04 years out of 05 years of jail sentence, he has no criminal antecedent and has facing the *lis* for last four years. Therefore, it is prayed that the jail sentence awarded to the Appellant may be reduced to the period already undergone by him.
4. On the contrary, learned State Counsel opposed the appeal and supported the impugned judgment.
5. I have heard learned counsel appearing on behalf of the parties and perused the record minutely.
6. Considering the above facts and circumstances of the case,

particularly considering the fact that the Appellant is in jail since 15.08.2017 and completed about 04 years out of 05 years of jail sentence, he has no criminal antecedent and facing the *lis* for last four years. 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.

7. Consequently, the appeal is partly allowed. The conviction of the Appellant under Section 20(b)(ii-B) of the NDPS Act is affirmed and against the conviction he is sentenced to the period already undergone by him. The fine sentence for the above offence is also affirmed.
8. 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