

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 574 of 2011**

Rakesh Yadav S/o Shri Atmaram, aged about 31 years R/o Village Lingiyadih,
Behind Apolo Hospital, Bilaspur (C.G.)

---- Appellant

Versus

State of Chhattigarh through Police Station Dharsiwa, Raipur (C.G.).

---- Respondent

For Appellant	:	Mr. Vikas Pandey, Advocate
For Respondent	:	Mr. Ghanshyam Patel, Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

05/03/2021

1. This appeal has been preferred against the judgment dated 05/02/2011 passed in Special Criminal Case No. 17/2009 by the Special Judge, NDPS, Raipur (C.G.), whereby the Appellant has been convicted under Section 20 (b) (ii) (B) of the NDPS Act and sentenced to undergo RI for 5 years with fine of Rs. 25,000/- with default stipulation.
2. According to the case of the Prosecution on 15/04/2009 on the basis of secret information received from the informant, the car bearing registration No. CG10 F 4997 has been searched and on being searched, total 11.50 Kg contraband was seized from the possession of the appellant. Sample packets were prepared. After completion of investigation, a charge-sheet was filed. Trial Court framed the

charges.

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 the Appellant has undergone about 2 years 3 months out of total jail sentence of 5 years, he has no criminal antecedent and he is facing the *lis* since 2009, therefore, he prays 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 supported 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 out of total jail sentence of 5 years, the Appellant has undergone about 2 years 3 months, he is facing the *lis* since 2009 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 the Appellant, the jail sentenced awarded to him is reduced to the period already undergone by him and the fine sentence imposed under the aforementioned Section is enhanced to Rs. 40,000/-. Ordered accordingly. The enhanced amount of fine shall be payable within 2 months from the date of receipt of a copy of this

order. In default of payment, the Appellant shall be liable to undergo RI for 6 months. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today. Ordered accordingly.

8. Consequently, the appeal is partly allowed to the extent indicated above.
9. It is reported that the Appellant/accused is on bail. His bail bond is not discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.
10. 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