

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 674 of 2012

- Shyamlal Mehar S/o Gadaray Aged About 53 Years R/o Village - Kampa, Thana - Tumgaon, Distt. - Mahasamund C.G.

---- Appellant

Versus

- State Of C.G. S/o Through The District Magistrate, Mahasamund, Distt. - Mahasamund C.G.

---- Respondent

For Appellant	:Mr. Sunil Sahu, Advocate.
For State/Respondent	:Mr. Priyanshu Gupta, P.L.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

24.03.2021

1. This appeal has been preferred against the judgment dated 31.07.2012 passed in Special Criminal Case No. 13/2010 by the learned Special Judge(NDPS Act), Mahasamund District Mahasamund (C.G.) wherein, the Appellant has been convicted for the offence punishable under Section 20(b)(ii)(b) of the Narcotic Drugs and Psychotropic Substance Act and sentenced to undergo R.I. for 1 year and to pay fine of Rs.10,000/-, with default stipulation.
2. According to the case of prosecution, on 18.09.2010, Police Inspector namely Bharti Markam has received a secret information from the informant with the averment that one

person is coming by Motorcycle and he kept contraband article '*Ganja*' in his possession. The information was recorded in *Rojnamcha* and searched team has been prepared. Thereafter, the team went to the spot and stopped the Appellant who was coming through his motorcycle. On being searched, total 2 kgs. of contraband '*Ganja*' was found which has been seized from his possession. Later on after other formalities, sample packets of the seized contraband were prepared and the seized contraband was deposited in *Malkhana* of the Police Station. After completion of investigation, charge-sheet was filed by the Police. Trial Court framed the charges against the Appellant. To robe the Appellant in the crime-in-question, the prosecution has examined as many as 7 witnesses. In the statement of Appellant recorded under Section 313 of Cr.P.C, he has pleaded his innocence and false implication in the matter, however no defence witness was examined by the Appellant. After completion of trial, Trial Court convicted and sentenced the Appellant as mentioned in Para 01 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 out of 01 year of jail sentence the Appellant has already undergone about seven months in jail. The entire amount of

fine has already been deposited by him. He has no criminal antecedent and he is facing the *lis* since 2012, i.e. for about 9 years. Therefore, the jail sentence awarded to the Appellant may be reduced to the period already undergone by him.

4. On the contrary, learned State Counsel opposes 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 quantity of seized contraband and the fact that out of total jail sentence of 01 year, the Appellant has already undergone about 7 months in jail, he is facing the *lis* since 2012 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 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 the aforementioned section is affirmed and he is sentenced to the period already undergone by him. The fine sentence is affirmed.
8. It is reported that the Appellant is on bail. His bail bond is not discharged at this stage and the same shall remain operative

for a further period of six months in light of Section 437-A of the Cr.P.C.

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