

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 177 of 2021

- State Of Chhattisgarh Through Police Station Ambikapur , District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh.

---- Petitioner

Versus

1. Vivek @ Golu Upadhyay S/o Shyamdhar Upadhyay Aged About 24 Years Resident Of Mayapur, Police Station Ambikapur , District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
2. Ajay Sonwani S/o Biganram Sonwani Aged About 32 Years Resident Of Manipur , Police Station Ambikapur , District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Respondent.

For the Petitioner/State :- Mr. K..K. Singh, GA.

Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Vimla Singh Kapoor,

Order on Board by Justice Manindra Mohan Shrivastava J.
22.02.2021

Heard on prayer for condonation of delay as well as grant of leave to appeal.

2. Even if we are inclined to condone the delay, the argument of learned State counsel does not warrant acceptance because mere submission of report by Drug Inspector is not proof of the fact that the bottle contained the narcotics that too in the quantity which is made punishable under the law. Learned trial Court in Paragraph 33 of the judgment, has taken into consideration the submission made by the Drug Inspector that he had not undertaken any chemical examination of the content of the bottle but only on the basis of the label in the bottle he had given his report.

The seized article or its sample were not sent for chemical examination. In the absence of chemical examination, acquittal of the accused by the learned trial Court that has become doubtful whether the content in the bottle was psychotropic substance, does not warrant any interference because the view taken is possible and plausible, giving the limited scope of interference against the judgment of acquittal. Application is rejected.

3. Accordingly, the application for grant of leave to appeal is **rejected**.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge

Ajay