

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1694 of 2018**

- Ajit Patel, S/o Late Keshaw Patel, Aged About 27 Years, R/o Village- Bichua, Police Station- Panagar, District- Jabalpur, Madhya Pradesh.

---- Appellant**Versus**

- State Of Chhattisgarh Through Police Station- Devendra Nagar, District- Raipur, Chhattisgarh.

---- Respondent

For Appellant	:	Mr. Avinash Mishra, Advocate.
For Respondent	:	Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****06/09/2021**

1. This appeal has been preferred against the judgment dated 18.07.2018 passed in Special Criminal Case Under the NDPS Act No.139/2017 by the Special Judge, Raipur, District – Raipur,, (C.G.), whereby the appellant has been convicted under Section 20(ii)(B) of N.D.P.S. Act and sentenced to undergo R.I. for 4 years and to pay fine of Rs. 20,000/- with default stipulation.
2. According to the case of prosecution, on 26.04.2017 at about 7:00 AM, Chandradev Sharam, S.I., P.S. Devendra Nagar, Raipur received information from informant that one man wearing red T-shirt and jeans

near Mahindra workshop at Pandri Bus Stand is in possession of contraband '*ganja*' in one cloth '*gathri*' for the purpose of sell. He recorded the said information. Upon receiving such information, necessary procedures were followed and thereafter, police personnel reached the spot. On being searched, total 10 Kg of contraband '*ganja*' was recovered from the possession of the appellant. 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 10 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 10 Kgs and the appellant has already undergone the entire jail sentence and at present he is undergoing the jail sentence against default in payment of fine amount. Appellant has no criminal antecedent. He is facing the *lis* for the last four years. Therefore, it is prayed that the jail sentence awarded to him against default in payment of fine 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 appellant had already undergone entire jail sentence, he is facing the *lis* for the last four years 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 against default in payment of fine is reduced to the period already undergone by him.
8. 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.
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