

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No. 507 of 2021

Arising Out of PS. Case No.-329 Year-2016 Thana- NARPATGANJ District- Araria

VIKASH KUMAR SAH @ VIKESH SAH Son of Ramkishun Sah @ Ram
Kishun Sah, Resident of Village - Pithaura, Police Station - Narpatganj,
District – Araria. Appellant/s

Versus

THE STATE OF BIHAR. Respondent/s

Appearance :

For the Appellant/s : Mr. Mukesh Kumar Rana, Advocate
For the Respondent/s : Mrs. Shashi Bala Verma, APP

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

and

**HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL JUDGMENT

**(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH)**

Date : 03-10-2023

This appeal has been preferred under Section 374 (2) of the Code of Criminal Procedure, 1973 for setting aside the judgment dated 18.02.2021 and the order of sentence dated 04.03.2021 passed by learned 1st Additional Sessions Judge-cum-Special N.D.P.S. Judge, Araria in Special (NDPS) No. 38 of 2016/CIS No. 1538 of 2016, arising out of Narpatganj P.S. Case No. 329 of 2016, whereby the appellant has been convicted and sentenced as under:-

Conviction under Section	Sentence		
	Imprisonment	Fine (Rs.)	In default of fine
20(b)(ii) of the NDPS Act	RI for 20 years	2,00,000/- (two lakhs)	RI for two years



2. We are constrained to observe at the outset that the facts of this appeal eloquently reveal that the State police have remained utterly heedless to various directions issued by the Supreme Court, including the specific guidelines in case of ***Union of India vs. Mohanlal***, reported in ***(2016) 3 SCC 379***, in the matters of search, seizure, investigation and prosecution in relation to the offences punishable under the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act, in short). We take judicial notice of the fact that what has been noticed by this Court in the present case is not a solitary case and an exception, rather a practice, since in most of the cases, the State police, while carrying out investigation into such cases, have given deaf ears to the legal procedure and repeated guidelines issued by the Supreme Court in connection with such cases. We need not comment whether it is because of lack of sensitization and proper training of the State police personnel empowered under the Act or out of sheer reluctance to follow law.

3. A possibility of inaction on the part of the police personnel in following settled law in such matter, being deliberate, for extraneous reasons cannot be completely ruled out. We are constrained to make these observations, as we have



noticed abject failure on the part of the State police personnel in almost all cases arising out of the NDPS Act, when it pertains to following the procedure for searches, seizures, preparation of samples, transmission of the samples for scientific examination and disposal of the prohibited substance etc., as prescribed under the said Act.

4. Be that as it may, we need to confine ourselves to the facts of the present appeal for the purpose of adjudication. We, however, at the same time, expect that the high officials of the State government shall look into due implementation of the provisions under the NDPS Act and the pronouncements of the Supreme Court and this Court in that regard keeping in mind the avid object behind enactment of the Act to control drug menace.

5. Harendra Ram (P.W.1), a Sub-Inspector of Police, posted at Narpatganj police station, is the informant, whose written statement, addressed to the officer incharge of the Narpatganj police station dated 26-09-2016, is the basis for registration of the concerned Narpatganj P.S. Case No. 329 of 2016 on the same day, disclosing commission of offence punishable under Sections 8(c)/20(b)(ii)(B) of the NDPS Act against this appellant. According to the informant, he had left



the police station at 11:00 P.M. on 25-09-2016 to assist Bhargama police for conducting a raid in connection with Bhargama P.S. Case No. 105/16, registered for the offence punishable under Section 366A of the IPC. In that course, he along with other police personnel, including Sub-Inspector, Ram Ishwar Singh (PW 2), reached near the house of this appellant. They noticed that one person, sensing the presence of the police was shutting his door from inside. With the help of local *Chowkidar*, the said occupant of the house was made to open the door. Presence of some substance suspected to be contraband was noticed by the policemen. The person present in the house was overpowered by the police, who disclosed his name as Vikash Kumar Sah (the appellant). He (the informant) transmitted the information to the officer incharge of the police station and other senior police officers. Further, there was a Scorpio vehicle found parked near the appellant's house. In the presence of two witnesses, namely, Manoj Kumar and Shambhu Paswan, a search was conducted leading to recovery of four packets of *Ganja* in a white plastic bag and a digital weighing machine. Furthermore, from the Scorpio vehicle also, *Ganja* was recovered. The total weight of four packets of *Ganja* recovered from the appellant's house and two packets



from the said vehicle was found to be 89.5 kg. A seizure list was prepared on which the signatures of two independent witnesses and this appellant were obtained. The appellant was apprehended. A copy of seizure list was handed over to him. Further two samples, each containing 24 grams of *Ganja* were prepared from each of the six packets, which were marked as exhibits S1, S2, S3, S4, S5 and S6. They were properly sealed and the signatures of the witnesses and the appellant were obtained over the sealed packets. Thereafter, from each of the six packets, 24 gram of *Ganja* was taken out, they were mixed and a separate sample was prepared. From the FIR, it appears that the entire exercise of search, seizure, preparation of seizure list and preparation of samples were done at Pithaura Ward No. 5.

6. A charge-sheet was later submitted upon completion of investigation against this appellant and co-accused Binod Sah, the appellant's full brother on 20-03-2017 for commission of the offences punishable under Sections 8(c)/20(b) of the NDPS Act. Cognizance was taken on 07-04-2017. Subsequently, the accused persons were charged of commission of offence punishable under Section 20(b)(ii) of the NDPS Act. It further transpires that during the course of



investigation, names of two other persons also had emerged. Their cases were separated because they could not be apprehended. The persons put to trial denied the charge and claimed to be tried.

7. At the trial, the prosecution examined altogether nine witnesses in support of the charge, namely, Harendra Ram, the informant (PW 1), Ram Ishwar Singh, a Police Officer of Bhargama police station (PW 2), Kamal Kishore, Constable (PW 3), Rahim Lal Yadav, Head Constable (PW 4), Bindeshwari Sah (PW 5), an independent witness, who did not support the prosecution's case and he came to be declared hostile at the instance of the prosecution. Manoj Kumar Mandal (PW 6) and Shambhu Kumar Paswan (PW 7), are the seizure lists witnesses, who also did not support the prosecution's case of any seizure in their presence, though they proved their signatures on the seizure memo. Sunil Kumar (PW 8) produced material exhibits at the trial. Out of 89.5 kg. of *Ganja* said to have been seized, PW 8 produced only 7 kg. Which came to be marked as exhibit-M. PW 9 is the first Investigating Officer of the case. The second Investigating Officer, Pramod Kumar, who had submitted the charge-sheet on 20.03.2017, could not be examined at the trial, as he was no



more. In addition to the oral evidence of the prosecution's witnesses, the prosecution brought on record the following documentary evidence:-

1.	Seizure list	Ext.-1
2.	Written statement of the informant	Ext.- 2
3.	Formal FIR	Ext.-2/1
4.	F.S.L. Report	Ext.- 3
5.	Material exhibit	Ext.- M

8. The trial court, after having appreciated evidence adduced at the trial, acquitted co-accused Binod Sah of the charge and held this appellant guilty of charge of commission of offence punishable under Section 20(b)(ii) of the NDPS Act and sentenced him to imprisonment and fine, as has been noted above, by the judgment and order under appeal.

9. We have heard learned counsel appearing on behalf of the appellant and learned Additional Public Prosecutor for the State.

10. Before we take up the depositions of the witnesses at the trial, we consider it apt to take note of certain uncontroverted facts, which go to the root of the matter.

11. It is the prosecution's case that the *Ganja* was seized in the wee hours of 26.09.2016, when the police entered into the house of the appellant. From the evidence and the



materials on record, we do not find any reason for the police personnel to have entered into the house of the appellant except that he was seen by them closing the door of his house from inside. There is absolutely no material on record nor any evidence of any sort, which would even remotely suggest that the informant had reason to believe that the circumstances for carrying out search of the house as stipulated under Section 42 of the NDPS Act existed. Further, the manner in which the samples were prepared by the informant himself at the place of seizure has been noted in his written statement, which is the basis for registration of FIR. Apparently, PW 1 did not adhere to the requirement under Section 52A(2)(b) of the NDPS Act for preparation of samples in presence of a Magistrate. From the report of Forensic Science Laboratory, it transpires that with reference to Memo no. 4 dated 17.12.2016 advising dispatch of a parcel (the samples) through special messenger (*Chowkidar* Yogdhar Paswan), the parcel was received in Forensic Science Laboratory on 23.01.2017. 89.5 kg. of *Ganja* said to have been recovered from the house of the appellant and kept in the *Malkhana* of the police station stood reduced to 7 kg. on the date of its production before the court on 17.05.2019. Thus, according to the prosecution, on the date of



seizure of *Ganja* i.e. 26.09.2016, the same was kept in *Malkhana* till its production on 17.05.2019 without any effort having been made for its disposal in accordance with the requirement under Section 52A of the NDPS Act. If the deposition of PW 8 is to be accepted, the rodents damaged 82.5 kg. of *Ganja* during the period 26.09.2016 to 17.05.2019 (date of production before the court). Less said the better about the manner in which the integrity and sanctity of the sealed contraband was maintained, which is evident from the deposition of PW 8 himself. After most of the substance was damaged by rodents, the remaining was sealed by him. In his cross-examination, he deposed that after he had taken over the charge, on weighment, he had found the weight of *Ganja* to be 7 kg. only.

12. Now, coming to the depositions of the prosecution witnesses, we find that PW 1 deposed that PW 2, an officer of Bhargama police station had come to Narpatganj police station and had sought assistance for arresting the accused in Bhargama P.S. Case No. 105/16. In order to assist him, he had gone to village Pithaura, where they arrived at 1:30 A.M.. We do not find any reason disclosed in his deposition for him to enter into the appellant's house. The



deposition of PW 2 is another revelation. According to him, he had gone to Narpatganj police station as he was required to conduct a raid in connection with Bhargama P.S. Case No.105/2016 and in that context, he had reached the house of this appellant at 1:00 P.M.. Why did he reach the house of this appellant, is not disclosed in his examination-in-chief. Further, for the purpose of conducting raid of the appellant's house, he had brought with him two persons, who made the appellant open his door. He sniffed *Ganja*, which was kept below the bed in the appellant's room, packed in a gunny bag. Four packets of *Ganja* came to be recovered. Further from the Scorpio vehicle, two packets of *Ganja* were recovered. The *Ganja* so recovered was weighed in presence of one Binod and Shambhu Paswan (PW 7). The seized articles was weighed and its weight was found to be 89.5 kg.. In his cross-examination, he deposed that a shop-keeper was called for weighing the seized articles. *Ganja* was seized by him, PW 2 deposed at the trial. It is not in his deposition that samples were prepared at the place of seizure by PW 1, as claimed in the FIR. In his deposition, PW 2, rather deposed that after preparation of seizure, no other process in the nature of preparation of sample was undertaken at the place of seizure.



13. The depositions of PW 1 and PW 2 substantially vary and contradict each other. According to PW 1, the act of the appellant closing the door from inside gave the police party a reason to suspect and, thereafter they entered into his house. From the deposition of PW 2, on the other hand, it transpires that from Bhargama police station, he had gone to Narpatganj police station and from where he had come to the appellant's house with the police party and raided the house after bringing two witnesses. The evidence of PW 2 suggests that he had reached the appellant's house in connection with Bhargama P.S. Case No. 105/16. However, we do not see in the evidence on record to connect said Bhargama P.S. Case No. 105/16 with this appellant.

14. PW 3 was a Constable. According to his testimony, the police party had gone to conduct a raid in the house of the appellant.

15. We reiterate at this juncture that the evidence of none of the witnesses disclose any reason as to why the appellant's house was required to be raided.

16. PW 3 supported the prosecution's case of recovery of the contraband from the appellant's house. Similarly, Head Constable, Rahim Lal Yadav (PW 4) testified



that the police team had reached the house of the appellant for conducting a raid leading to recovery of contraband substance. From the evidence of PWs. 2, 3 and 4, it can be easily culled out that the appellant's house was targetted to be raided by PW 2 with the help of PW 1, a police officer of Narpatganj police station, as the appellant's house fell within the jurisdiction of Narpatganj police station. There is absolutely no clue as to what was the reason for the police party to conduct raid in the house of the appellant in connection with the above-mentioned Bhargama P.S. Case No. 105/16.

17. PW 5 has not at all supported the prosecution's case and his evidence does not support the case of the prosecution in any manner whatsoever.

18. PW 6, a seizure list witness, though proved his signature on the seizure list, in his cross-examination, he deposed that no article was recovered in his presence from the house of the appellant. The *Chowkidar* had called him to the police station and on the instruction of a Police Officer, he had put the signature on the seizure list. Similarly, PW 7, while proving his signature, deposed in his cross-examination that no seizure list was prepared in his presence. None of the seizure list witnesses have been declared hostile in this case.



19. We have already noticed the evidence of PW 8 hereinabove, who produced material exhibit (Ext. M) at the trial.

20. PW 9, the Investigating Officer, deposed in his cross-examination that he did not enter Malkhana Register number of the seized articles in his case diary. He deposed that the sampling of the seized articles was done in court.

21. We have noted hereinabove that there was no apparent reason for the informant to have entered into the appellant's house at 1:30 A.M. and caused the searches, which according to the prosecution, led to recovery of *Ganja*. We find from the impugned order passed by the learned trial court on the point of sentence that an argument was advanced by learned Special Public Prosecutor that the appellant was a veteran criminal and was involved in kidnapping and had kidnapped a girl, who was recovered from his house in connection with Bhargama P.S. Case No. 105/16 on the same day on which the contraband was recovered. The trial court, in the light of submission advanced on behalf of the State, has ordered as under:-

“Considering the submission of both sides and also considering the facts and discussions made in the judgment of conviction, whereby



convict is found guilty for the offence punishable under Section 20(b)(ii) of the N.D.P.S. Act, and further considering that the convict is involved in the case of kidnapping of a girl in Bhargama P.S. Case No. 105/16 and kidnapped girl was recovered from his house in same day on which huge quantity of Ganja 89.5kg. was recovered from his house and quantity of Ganja comes under the commercial quantity. Considering all above facts, the convict is sentenced to undergo R.I. for the period of Twenty years and fine of Rs. Two lakh for the offence under Section 20(b) (ii) of the NDPS Act and in case of default of payment of fine the convict shall have further to undergo R.I. for two years and the period already undergone in jail custody shall be set off with the period of his sentences.”

22. We, however, do not find any evidence on record that a kidnapped girl was also recovered during the raid conducted by the police team. There is no reference of such recovery either in the FIR or in the depositions of the witnesses.

23. Be that as it may, we are of the considered view that the police party did not comply, at all, with the requirement of Section 42 of the Act, inasmuch as, there is no



evidence that the informant recorded the grounds of his belief requisite under the second proviso to sub-section (1) of Section 42 of the NDPS Act, which reads as under:-

“Section 42: Any such officer (being an officer superior in rank to a peon, sepoy or constable) of the departments of central excise, narcotics, customs, revenue intelligence or any other department of the Central Government including para-military forces or armed forces as is empowered in this behalf by general or special order by the Central Government, or any such officer (being an officer superior in rank to a peon, sepoy or constable) of the revenue, drugs control, excise, police or any other department of a State Government as is empowered in this behalf by general or special order of the State Government, if he has reason to believe from personal knowledge or information given by any person and taken down in writing that any narcotic drug, or psychotropic substance, or controlled substance in respect of which an offence punishable under this Act has been committed or any document or other article which may furnish evidence of the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act is kept or concealed in any building,



conveyance or enclosed place, may between sunrise and sunset, -

(a) enter into and search any such building, conveyance or place;

(b) in case of resistance, break open any door and remove any obstacle to such entry;

(c) seize such drug or substance and all materials used in the manufacture thereof and any other article and any animal or conveyance which he has reason to believe to be liable to confiscation under this Act and any document or other article which he has reason to believe may furnish evidence of the commission of any offence punishable under this Act or furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act; and

(d) detain and search, and, if he thinks proper, arrest any person whom he has reason to believe to have committed any offence punishable under this Act:

[Provided that in respect of holder of a licence for manufacture of manufactured drugs or psychotropic substances or controlled substances granted under this Act or any rule or order made thereunder, such power shall be exercised by an officer not below the rank of sub-inspector:

Provided further that] if such officer has reason to believe that a search warrant or authorisation cannot be obtained without affording opportunity



for the concealment of evidence or facility for the escape of an offender, he may enter and search such building, conveyance or enclosed place at any time between sunset and sunrise after recording the grounds of his belief.”

24. In any view of the matter, the Supreme Court in case of *Mohanlal (supra)* has laid down in no uncertain terms that no sooner the seizure of any Narcotic Drugs and Psychotropic Controlled Substances and conveyances is effected, the same is to be forwarded to the officer incharge of the nearest police station and the officer concerned is, in turn, required to approach the Magistrate with an application under Section 52-A (2) of the Act to be allowed by the Magistrate as soon as may be required under sub-section (3) of Section 52-A of the Act, as discussed in the said judgment in paragraphs 15 to 19 thereof. Paragraphs 15 to 17 of the said decision are relevant for the present purpose, which are being reproduced hereinbelow:-

“15. It is manifest from Section 52-A(2)(c)(supra) that upon seizure of the contraband the same has to be forwarded either to the officer-in-charge of the nearest police station or to the officer empowered under Section 53 who shall prepare an inventory as stipulated in the said provision and make an application to the Magistrate for purposes of (a) certifying the correctness of the inventory, (b)



certifying photographs of such drugs or substances taken before the Magistrate as true, and (c) to draw representative samples in the presence of the Magistrate and certifying the correctness of the list of samples so drawn.

16. Sub-section(3) of Section 52-A requires that the Magistrate shall as soon as may be allowed the application. This implies that no sooner the seizure is effected and the contraband forwarded to the officer-in-charge of the police station or the officer empowered, the officer concerned is in law duty-bound to approach the Magistrate for the purposes mentioned above including grant of permission to draw representative samples in his presence, which samples will then be enlisted and the correctness of the list of samples so drawn certified by the Magistrate. In other words, the process of drawing of samples has to be in the presence and under the supervision of the Magistrate and the entire exercise has to be certified by him to be correct.

17. The question of drawing of samples at the time of seizure which, more often than not, takes place in the absence of the Magistrate does not in the above scheme of things arise. This is so especially when according to Section 52-A (4) of the Act, samples drawn and certified by the Magistrate in compliance with sub-sections (2) and (3) of Section 52-A above constitute primary evidence for the purpose of the trial. Suffice it to say that there is no provision in the Act that mandates taking of samples at the time of seizure. That is perhaps why none of the States claim to be taking



samples at the time of seizure.”

25. In the present case, as has been noted-above, no application was made before the court below, soon after seizure of the articles said to be contraband for deputing a Magistrate for preparation of samples. It rather appears that the sample was not prepared before a Magistrate. A sample was dispatched on 17.12.2016, that was received by the Forensic Science Laboratory more than one month thereafter on 23.01.2017. Though, the sample was sent through special messenger, there is no clue as to how and where the sample was kept in the meanwhile by the special messenger.

26. Secondly, in the decision rendered on 28.01.2016 in case of *Mohanlal (supra)*, the Supreme Court has issued following directions in paragraphs 31.2, 31.3 and 31.4, for disposal of Narcotic Drugs and Controlled Substances, which read thus:-

“**31.2.** The Central Government and its agencies and so also the State Governments shall within six months from today take appropriate steps to set up storage facilities for the exclusive storage of seized narcotic drugs and psychotropic and controlled substances and conveyances duly equipped with vaults and double-locking system to prevent theft, pilferage or replacement of the seized drugs. The Central Government and the State Governments



shall also designate an officer each for their respective storage facility and provide for other steps, measures as stipulated in Standing Order No. 1 of 1989 to ensure proper security against theft, pilferage or replacement of the seized drugs.

31.3. The Central Government and the State Governments shall be free to set up a storage facility for each district in the States and depending upon the extent of seizure and store required, one storage facility for more than one districts.

31.4. Disposal of the seized drugs currently lying in the Police Malkhanas and other places used for storage shall be carried out by the DDCs concerned in terms of the directions issued by us in the body of this judgment under the heading “disposal of drugs”.

27. The aforesaid directions were issued while dealing with the requirements under Section 52-A of the Act, which provides for disposal of the seized contraband. The Supreme Court has dealt this aspect in paragraphs 27 and 28 in case of *Mohanlal (supra)*, which read thus:-

“27. Section 52-A as amended provides for disposal of the seized contraband in the manner stipulated by the Government under sub-section (1) of that section. Notification dated 16-1-2015, in supersession of the earlier Notification dated 10-5-2007 not only stipulates that all drugs and psychotropic substances have to be disposed of but also identifies the officers who shall initiate action for disposal and the procedure to be



followed for such disposal. Para 4 of the Notification, inter alia, provides that officer in charge of the police station shall within 30 days from the date of receipt of chemical analysis report of drugs, psychotropic substances or controlled substances apply to any Magistrate under Section 52-A(2) in terms of Annexure 2 to the said Notification.

28. Sub-para (2) of Para 4 provides that after the Magistrate allows the application under sub-section (3) of Section 52-A, the officer mentioned in sub-para (1) of Para 4 shall preserve the certified inventory, photographs and samples drawn in the presence of the Magistrate as primary evidence for the case and submit details of seized items to the Chairman of the Drugs Disposal Committee for a decision by the Committee on the question of disposal. The officer shall also send a copy of the details along with the items seized to the officer in charge of the godown. Para 5 of the Notification provides for constitution of the Drugs Disposal Committee while Para 6 specifies the functions which the Committee shall perform. In Para 7 the Notification provides for procedure to be followed with regard to disposal of the seized items, while Para 8 stipulates the quantity or the value up to which the Drugs Disposal Committee can order disposal of the seized items. In terms of proviso to Para 8 if the consignments are larger in quantity or of



higher value than those indicated in the Table, the Drugs Disposal Committee is required to send its recommendations to the head of the department who shall then order their disposal by a high-level Drugs Disposal Committee specially constituted for that purpose. Para 9 prescribes the mode of disposal of the drugs, while Para 10 requires the Committee to intimate to the head of the Department the programme of destruction and vest the head of the Department with the power to conduct a surprise check or depute an officer to conduct such checks on destruction operation. Para 11 deals with certificate of destruction while Paras 12 and 13 deal with details of sale to be entered into the godown register and communication to be sent to the Narcotics Control Bureau.”

28. Unfortunately, in the present case, no steps were taken for disposal of the seized contraband and according to the prosecution and the same was allowed to remain in the *Malkhana* of the police station right from 26.09.2016 to 17.05.2019. The prosecution’s story that the *Ganja* stood damaged in the meanwhile by the rodents and the quantity of the remaining *Ganja* was only 7 kg. as against the seized *Ganja* of 89.5 kg. reveals the abject failure on the part of the State to ensure safe storage of contraband. Apparently, the sanctity and the integrity of the contraband said to have been



seized stood compromised, as the bags containing *Ganja* were found by PW 8 himself to be in torn condition.

29. There are thus, more than one reason why the finding of the conviction recorded by the trial court cannot be sustained. Firstly, the samples were not drawn in presence of a Magistrate. Secondly, no application was made for drawing the samples soon after the seizure was made. Thirdly, there has been inordinate delay of more than three months in delivery of the samples to the Forensic Science Laboratory. The Supreme Court in case of *Valsala vs. State of Kerala*, reported in **1993 Supplementary (3) SCC 665**, deprecated the delay in sending the seized articles for chemical examination in the absence of any cogent evidence to show as to with whom the seized articles were lying.

30. In our opinion, thus, at the cost of repetition, we need to point out that there is no evidence, at all, adduced in the present trial that the said Bhargama P.S. Case No. 105/16 related to kidnapping of a girl by this appellant, inasmuch as, there is no mention of such fact either in the FIR or in the depositions of the witnesses. The trial court ought not to have relied on any material, not brought on record before it by way of evidence at the trial. For the foregoing reasons, we are of



the opinion that the trial court’s finding of conviction by judgment dated 18.02.2021 is unsustainable. The appellant deserves acquittal by giving him benefit of doubt.

31. Accordingly, the impugned judgment of conviction dated 18.02.2021 and the order of sentence dated 04.03.2021 passed by learned 1st Additional Sessions Judge-cum-Special N.D.P.S. Judge, Araria in Special (NDPS) No. 38 of 2016/CIS No. 1538 of 2016, arising out of Narpatganj P.S. Case No. 329 of 2016, are hereby set aside.

32. This appeal is allowed.

33. The appellant is in custody, Let him be released from jail forthwith, if not required in any other case.

(Chakradhari Sharan Singh, J)

(Nawneet Kumar Pandey, J)

Mahesh/Akv

AFR/NAFR	NAFR
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