

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.146 of 2019

Arising Out of PS. Case No.-5 Year-2012 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

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Bhola Sao @ Bhola Sah, Son Of Gopi Chand Sah @ Gopi Chand Sao
Resident Of Nagwa Chowk, Near Baba Hotel Birganj, P.S.- Birta Chowk,
District- Parsa, Nepal.

... .. Appellant/s

Versus

The Union Of India Through Director N.C.B. Patna Government Of India

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Sanjay Kumar, Advocate
For the Respondent/s	:	Mr.S.D.Sanjay(ADSG)
For the NCB (UOI)	:	Mr.Bindhyachal Rai, Sr. Panel Counsel
		Mr.Manoj Kumar Singh, CGC
		Mr.Ashutosh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

and

HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI)

8 18-11-2025 The instant appeal is directed against a judgement of conviction and sentence whereby and whereunder the learned Special Judge under the NDPS Act found the appellant / convict guilty for committing offence under Section 20B (ii) (c) of the NDPS Act for illegal possession of Hashish / Charas weighing about 7 Kg in contravention of Section 8 of NDPS Act and also under Section 29 of the NDPS Act for being a party to the criminal conspiracy for illegal possession and transportation of narcotic drug.

2. After framing of charge, the prosecuting agency



examined four witnesses and some documents relating to seizure of the narcotic substance from the possession of the appellant were marked exhibits. The learned Trial Judge on careful consideration of the evidence on record found the appellant guilty for committing offence under Sections 20B (ii) (c) / 29 of the NDPS Act and convicted and sentenced him accordingly.

3. Against the said judgement and order of conviction and sentence the appellant has preferred appeal.

4. At the time of hearing of the appeal, it is submitted by the appellant that he does not have anything to submit with regard to the evidence on record or finding of the Court holding the appellant guilty for the afore-mentioned offence. However, the learned Advocate on behalf of the appellant makes his submission with regard to the sentence. It is submitted by him that for the offence under Section 20B (ii) (c) of the NDPS Act, the appellant was sentenced to suffer imprisonment for 12 years with fine of Rs. 1.50 Lakh and in default of fine, imprisonment for further period of 2 years. For the offence under Section 29 of the NDPS Act, the same amount of punishment was granted by the Trial Court. It was directed that the substantial offence of imprisonment shall run concurrently. However punishment for



imprisonment for non-payment of fine shall run separately.

5. The learned Advocate on behalf of the appellant submits that the appellant is confined to the correctional home since 16th of February, 2012. He has already completed incarceration for 13 years 8 months. Therefore, he prays for modification of the sentencing order so that he may be released at an early date.

6. Learned Advocate on behalf of the NCB also submits that the appellant has suffered substantial period of his sentence. If he is given liberty to be released after the period of long incarceration, NCB has no objection.

7. We have considered the submission made by the learned counsels for the parties.

8. We are of the view that incarceration in the correctional home for more than 13 years surely makes the appellant a reformed and changed person. He has suffered adequate sentence for the offence committed by him. Therefore, we are inclined to modify the part of sentence for non-payment of fine amount from 2 years to 1 year and 6 months. It is also directed that the period of sentence of 1 and 6 months for non-payment of fine in both the counts will run concurrently and if the period is found to be over by the correctional home



authority, the appellant be released from the correctional home.

9. With the above order while confirming the order of convection, we modified the order of sentence.

10. The appeal is accordingly disposed of.

11. Let a copy of this order be sent to the correctional home where the appellant is incarceration.

12. Let a plain copy of this order be also served to the Advocate of the appellant for taking necessary step in respect of the appellant.

13. With the disposal of the appeal, all interim applications, if any, be disposed of.

14. The NCB is directed to dispose of and destroy the seized narcotic substance after the expiry of the period Special Leave to Appeal before the Hon'ble Supreme Court.

(Bibek Chaudhuri, J)

(Dr. Anshuman, J)

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