

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1318 of 2024

Arising Out of PS. Case No.-252 Year-2011 Thana- RAXAUL District- East Champaran

Niranjan Pandit, Son of Rajdeo Pandit, Resident of Village -Chhithar Tola,
P.S.- Anand Bazar, Distt -Siwan

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr. Mahendra Prasad Verma, Advocate
For the Respondent/s : Mr. Binod Bihari Singh, Addl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and

HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 24-06-2025

Heard learned counsel for the appellant and learned
Additional Public Prosecutor for the State.

2. This appeal has been preferred on behalf of the appellant through the Patna High Court Legal Services Committee for setting aside the judgment of conviction (hereinafter referred to as the 'impugned judgment') dated 18.02.2021 and the order of sentence (hereinafter referred to as the impugned order) dated 26.02.2021 passed by learned Additional Sessions Judge-1-cum-Special Judge, N.D.P.S. Act, East Champaran, Motihari in N.D.P.S. Sessions Trial No. 184 of 2011, G.R. No. 840 of 2011, vide C.I.S. No. 155 of 2016 arising out of Raxaul P.S. Case No. 252 of 2011.

3. By the impugned judgment, the appellant has



been convicted for the offence punishable under Section 20(b) (ii) (c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to the 'N.D.P.S. Act'). He has been ordered to undergo a sentence of rigorous imprisonment of 15 years and to pay a fine of Rs. 1,00,000/- (one Lakh). In case of non-payment of fine, he has been ordered to undergo an additional simple imprisonment of six months.

4. Mr. Mahendra Prasad Verma, learned counsel representing the appellant submits that at this stage, the appellant has served in jail for 13 years and 7 months. Learned counsel submits that he would confine the challenge in this appeal to the order of sentence dated 26.02.2021 passed by the learned trial Court.

5. It is submitted that from the order dated 26.02.2021, it would appear that the learned trial Court has, while awarding a sentence of 15 years rigorous imprisonment not considered the various factors which are required to be looked into for the purpose of coming to a just and proper conclusion as to what would be an appropriate sentence to the accused.

6. Learned counsel has relied upon the judgment of the Hon'ble Supreme Court in the case of **Bachan Singh Vs.**



State of Punjab reported in **(1980) 2 SCC 684** wherein the Hon'ble Supreme Court has laid down the principles governing sentencing of an accused.

7. It is submitted that Section 10(b)(ii)(c) provides for a minimum sentence of 10 years imprisonment. The 10 years imprisonment which may extend to 20 years. In the present case, the appellant has already served 13 years and 7 months. Therefore, keeping in view the judgment of the Supreme Court on this issue, the sentence may be reduced for the period undergone and the appellant may be released.

8. Learned counsel further submits that the learned trial Court has imposed a fine of Rs. 1,00,000/- (one Lakh). However, the appellant comes from a poor strata of a family and he was not even able to prefer an appeal against the impugned judgment for three and half years. The present appeal has been preferred through the Patna High Court Legal Services Committee. In such view of the matter, the impugned order may be modified and the sentence be confined to the period undergone by the accused.

9. Mr. Binod Bihari Singh, learned Additional Public Prosecutor for the State does not object to the submissions of the learned counsel for the appellant.



10. In the case of **Bachan Singh** (supra), the Hon'ble Supreme Court in paragraph '206' and '207' has *inter alia* observed as under:-

206. Dr Chitale has suggested these mitigating factors:

“*Mitigating circumstances.*—In the exercise of its discretion in the above cases, the court shall take into account the following circumstances:

(1) That the offence was committed under the influence of extreme mental or emotional disturbance.

(2) The age of the accused. If the accused is young or old, he shall not be sentenced to death.

(3) The probability that the accused would not commit criminal acts of violence as would constitute a continuing threat to society.

(4) The probability that the accused can be reformed and rehabilitated. The State shall by evidence prove that the accused does not satisfy the conditions (3) and (4) above.

(5) That in the facts and circumstances of the case the accused believed that he was morally justified in committing the offence.

(6) That the accused acted under the duress or domination of another person.

(7) That the condition of the accused showed that he was mentally defective and that the said defect impaired his capacity to appreciate the criminality of his conduct.”

207. We will do no more than to say that these are undoubtedly relevant circumstances and must be given great weight in the determination of sentence....”

11. Having regard to the submissions noted hereinabove and finding that the impugned order dated



26.02.2021 passed by the learned trial Court does not consider the various factors which are required to be looked into for the purpose of sentencing, we set aside the same and direct that the period already undergone in incarceration i.e. 13 years and 7 months will be taken as the period of sentence awarded to the appellant.

12. In result, the appeal is allowed to the extent indicated hereinabove. The appellant shall be released forthwith if not wanted in any other case.

(Rajeev Ranjan Prasad, J)

(Ashok Kumar Pandey, J)

lata/Jagdish/-

AFR/NAFR	
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