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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 536/2018**
ABDUL SHAHZADAppellant
Through: In person

versus

THE STATE (NCT DELHI)Respondent
Through: Mr. Pradeep Gahalot, APP for State
with SI BIneder Singh, P.S. Jama
Masjid, Delhi.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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16.12.2025

1. By way of the present appeal under Section 374(2) Cr.P.C., the appellant seeks to assail the judgment of conviction dated 09.04.2018 and the order on sentence dated 11.04.2018, passed by the learned Special Judge, NDPS Act (Central), Tis Hazari Courts, Delhi, in SC No. 36/2015 & 27238/2016, arising out of FIR No. 86/2015, registered at Police Station Jama Masjid, whereby the appellant was convicted for the offence punishable under Section 21(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985.
2. Vide the impugned order on sentence dated 11.04.2018, the appellant was sentenced to undergo rigorous imprisonment for one year with a fine of Rs.5,000/-, and in default of payment of fine, to further undergo simple imprisonment for three months. The benefit under Section 428 Cr.P.C. was extended to the appellant.



3. The sentence of the appellant was thereafter suspended during the pendency of the appeal, and the appellant was released on bail. It is not in dispute that the appellant was ultimately released from custody on 02.04.2019.

4. Briefly stated, the case of the prosecution was that on 09.05.2015, at about 3:20 p.m., while on patrolling duty in the area near *Kuda Khatta, Jama Masjid*, the appellant was apprehended by police officials after he attempted to flee on noticing the police. During the course of his apprehension, he allegedly attempted to discard a polythene packet, which upon checking was found to contain 15 grams of smack. After completion of formalities, samples were drawn and sent for forensic examination.

5. During trial, the prosecution examined eight witnesses, including the recovery witnesses, the Investigating Officer, officials associated with sealing, custody, and dispatch of the samples, and the formal witnesses. The FSL report confirmed the presence of 6-Monoacetylmorphine and Codeine in the recovered substance.

6. The appellant, in his statement under Section 313 Cr.P.C., denied the allegations levelled against him and claimed false implication. He asserted that he had been picked up by the police from *Daryaganj/Meena Bazar* and that no recovery of any contraband was effected from his possession. In support of his defence, the appellant examined two defence witnesses, namely DW-1 Nisar Ahmad and DW-2 Mohd. Asad, both of whom deposed to the effect that the appellant was apprehended by the police from a place other than the alleged spot of recovery.

7. Upon appreciation of the evidence on record, the learned Trial Court held that the recovery stood duly proved, the defence version alleging false



implication was rejected, and accordingly, the appellant was convicted under Section 21(b) NDPS Act.

8. The appellant is present in person and is duly identified by the IO. Learned counsel for the appellant, on instructions, submits that the appellant does not wish to press the appeal on merits and confines his prayer solely to seeking modification of the substantive sentence to the period already undergone. It is submitted that the appellant belongs to an economically weak background, is the sole earning member of his family, and has remained compliant with the conditions imposed during suspension of sentence. Learned counsel further undertakes that the appellant has deposited the fine imposed by the Trial Court.

9. Learned APP for the State has handed over a status report, which is taken on record, which states that there are other involvements but except three all are prior to present case. The three cases which were registered after the year 2015, the appellant stands acquitted.

10. On a careful perusal of the record, including the testimony of the recovery witnesses, the Investigating Officer, and the documentary evidence, this Court finds no infirmity in the reasoning adopted by the learned Trial Court. Accordingly, the conviction of the appellant under Section 21(b) of the NDPS Act is upheld. Further, as per the status report placed before this Court, the appellant has no other criminal involvement and the FIR being of the year 2015, and having regard to the overall facts and circumstances of the case, this Court is of the considered view that the ends of justice would be adequately met by modifying the substantive sentence to the period already undergone.



11. Consequently, while the conviction of the appellant under Section 21(b) of the NDPS Act is upheld, the sentence of imprisonment is modified to the period already undergone. The receipt with respect to the proof of payment of the fine amount of Rs.5,000/- is already on record.
12. The appeal is partly allowed and is disposed of in the above terms. Pending applications, if any, also stand disposed of.
13. Subject to payment of the fine amount, the bail bonds furnished by the appellant shall stand cancelled and the sureties are discharged.
14. A copy of this judgment be transmitted to the concerned Trial Court and the Superintendent of the Jail concerned for information and necessary compliance.

MANOJ KUMAR OHRI, J

DECEMBER 16, 2025