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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.A. 416/2017**

BHURA NATH

.....Appellant

Through: Mr.S.B. Dandapani, Advocate

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr Pradeep Gahalot, APP for State with
SI Dev Kumar

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

24.11.2025

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1. By way of the present appeal under Section 374(2) Cr.P.C., the appellant seeks to assail the judgment of conviction dated 24.10.2016 and the order on sentence dated 25.10.2016, passed by the learned Special Judge (NDPS), South-West District, Dwarka Courts, New Delhi, in Session Case No. 441164/2016, arising out of FIR No. 100/2013 registered under Section 21/29 of the NDPS Act at Police Station Crime Branch. The appellant was convicted for the offence punishable under Section 21(b) NDPS Act.
2. Vide the impugned order on sentence, the appellant was directed to undergo Rigorous Imprisonment for five years, along with a fine of Rs. 30,000/-, and in default of payment of fine, to undergo Simple Imprisonment for three months. The benefit under Section 428 Cr.P.C. was extended to him.
3. The sentence of the appellant was suspended during the pendency of the appeal pursuant to the order passed by this Court on 01.05.2017 , following which he was released on bail on 30.05.2017.



4. Briefly stated, the case of the prosecution is that on 04.06.2013, on the basis of secret information, the appellant along with co-accused Shambhu Nath was apprehended beneath the foot over bridge opposite Dhaula Kuan Metro Station, and from his possession, 200 grams of heroin was recovered. The samples drawn from the recovered substance were sent to FSL, and the report confirmed the recovered substance to be heroin.

5. The prosecution examined eleven witnesses, including the recovery witnesses, the Investigating Officers, and the scientific expert from FSL. The Trial Court found the testimony of the prosecution witnesses to be credible and internally consistent and held that the recovery stood proved. The appellant in his statement under Section 313 Cr.P.C. denied the allegations and claimed false implication; however, he did not lead any defence evidence.

6. Upon appreciation of evidence, the learned Trial Court held that the prosecution had proved that the appellant was found in conscious possession of 200 grams of heroin and accordingly convicted him under Section 21(b) of the NDPS Act. The appellant was acquitted of the charge under Section 29 NDPS Act.

7. On a careful perusal of the record, including the testimony of the recovery witnesses, the FSL report, and the compliance of procedural safeguards under the NDPS Act, this Court finds no infirmity in the reasoning adopted by the learned Trial Court. Accordingly, the conviction of the appellant under Section 21(b) NDPS Act is upheld.

8. The appellant is present in person and is duly identified by the IO. Learned counsel for the appellant submits, on instructions, that the appellant does not wish to press the appeal on merits and confines his prayer to



modification of sentence. It is submitted that the appellant has furnished sureties in the sum of Rs. 40,000/- and undertakes that upon his release, the fine amount of Rs. 30,000/- shall be deposited out of the said surety amount within the time period as granted by this Court. It is further submitted that the appellant is 36 years of age, working as a labourer, and is responsible for the care of his aged parents and four minor children (three daughters and one son).

9. Learned APP for the state submits upon instructions from the IO, that the appellant is not involved in any other case

10. The nominal roll of the appellant on record records that the appellant has undergone about 4 years in custody. It is noted that his overall jail conduct has been recorded as satisfactory. It further records that the appellant has no other criminal involvement and that he has not paid the fine amount.

11. The law with regard to release of the appellant in cases where the convict has undergone more than half of the sentence was laid down by the Supreme Court in Sonadhar v. State of Chhattisgarh decided on 06.10.2021, in **SLP (CRL)No. 529/2021** the relevant portion of the same is extracted hereunder:

'We thus issue the following directions:

a) A similar exercise be undertaken by the High Court Legal Services Committee of different High Courts so that convicts represented by legal aid Advocates do not suffer due to delay in hearing of the appeals. NALSA will circulate this order to the concerned authority and monitor the exercise to be carried on.

b) The Delhi High Court Legal Services Committee would take up the cases of those convicts who have undergone more than half the sentence in case of fixed term sentences and examine the feasibility of filing bail applications before the High Court, while in case of 'life sentence' cases, such an exercise may be undertaken where eight years of actual custody has been undergone.

c) We are of the view that in fixed term sentence cases, an endeavour be made, at least as a pilot project, in these two High Courts to get in touch with the



convicts and find out whether they are willing to accept their infractions and agree to disposal of the appeals on the basis of sentence undergone.

d) A similar exercise can be undertaken even in respect of 'life sentence' cases where the sentenced persons are entitled to remission of the remaining sentence i.e., whether they would still like to contest the appeals or the remission of sentence would be acceptable to such of the convicts.

Our aforesaid additional directions are based on a premise that at times if a convict has actually done of what he is accused of and he is remorseful, he may be willing to accept his acts and suffer a lesser sentence. We make it clear that the objective is not to compel or extract acceptance from such convicts depriving of the right of appeal.'

12. Having considered the submissions of learned counsel for the appellant, the learned APP for the State, the material on record, the period already undergone by the appellant, his socio-economic background and his family circumstances, this Court is of the view that the ends of justice would be adequately met by modifying the sentence imposed on the appellant.

13. Accordingly, while affirming the conviction of the appellant for the offence punishable under Section 21(b) NDPS Act, the sentence imposed is modified to the period already undergone, subject to deposit of the fine amount of Rs. 30,000/- within four weeks from today. The appellant shall be at liberty to approach the Trial Court for release of the amount that was furnished as surety.

14. Let a copy of this judgment be transmitted to the concerned Trial Court as well as the Jail Superintendent for information and necessary compliance.

15. The appeal is partly allowed and accordingly disposed of in the above terms. Pending applications, if any, also stand disposed of.

16. Subject to the aforesaid, the bail bonds furnished by the appellant shall stand cancelled and his sureties are discharged.



17. A copy of this order be sent to the concerned Trial Court and concerned Jail Superintendent for information and compliance.

MANOJ KUMAR OHRI, J

NOVEMBER 24, 2025

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