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

+ CRL.A. 419/2017

ANITA @ NEETA

.....Appellant

Through: Mr. Shoeb Shakeel Mr. Anwar
Ahmad Khan, Mr. Vishal Raj
Sehjipal, Advocates with appellant
through VC

versus

STATE GNCT OF DELHI

.....Respondent

Through: Mr Pradeep Gahalot, APP for State
with SI Krishna Kumar PS
ANTF/Crime Branch, Delhi
(M:9971388839)

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

06.11.2025

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1. The present appeal has been filed under Section 374 Cr.P.C. assailing the judgment of conviction dated 25.04.2017 and the order on sentence of the same date passed by the learned Special Judge-2 (NDPS Act), Central District, Tis Hazari Courts, Delhi, in Sessions Case No. 31/14, arising out of FIR No. 105/2014, registered at P.S. Crime Branch (Central), whereby the appellant Anita @ Neeta was convicted under Section 20(b)(ii)(B) of the NDPS Act, 1985 and sentenced to undergo Rigorous Imprisonment for three years, along with a fine of Rs.8,000/-, and in default, to undergo Simple Imprisonment for 20 days. The benefit of Section 428 Cr.P.C. was extended to her.

2. During the pendency of the present appeal, the sentence of the



appellant was suspended vide order dated 28.07.2017, and she was released from judicial custody on 01.08.2017.

3. The case of the prosecution, briefly stated, is that on 27.09.2014, acting on a secret information, the Narcotics Cell apprehended the appellant along with two co-accused persons, Debi Prasad Swain @ Deepak and Bikash Rout @ Vikas, near Street No. 3, Milan Vihar, Burari, Delhi, and recovered a total of 40 kilograms of *Ganja*, out of which 10 kilograms were recovered from the possession of the appellant Anita @ Neeta. Upon completion of investigation, the charge sheet was filed, and the Trial Court, vide the impugned judgment, convicted all three accused under Section 20(b)(ii)(B) of the NDPS Act.

4. During trial, the prosecution examined eleven witnesses in total, including the investigating officers, recovery witnesses, and members of the raiding team. Among them, W/SI Reema (PW-4), HC Abdul Hakim (PW-8) and SI Rajni Kant (PW-11) were the key witnesses to the alleged recovery. The witnesses deposed that due compliance of Section 50 NDPS Act was made at the spot and that the case property was sealed and seized in accordance with law. The other witnesses were formal in nature and proved the various steps of investigation.

5. During her examination under Section 313 Cr.P.C., the appellant Anita @ Neeta denied all incriminating circumstances appearing against her and pleaded false implication. She stated that on the date of the alleged recovery, she had been picked up by police officials while she was on her way to a clinic for medical treatment and that no contraband was recovered from her possession. The appellant examined one defence witness, MHC (M) Jag Narain, to support her plea, while no other evidence was led on



behalf of the remaining co-accused persons.

6. Upon appreciation of evidence, the Trial Court held that the testimonies of the prosecution witnesses, particularly those of the members of the raiding party, were consistent and corroborated by the documentary and scientific evidence on record. The Court observed that the procedural safeguards under the NDPS Act, including the service of notice under Section 50 and the sealing of the case property, had been duly complied with. The absence of independent public witnesses, it was held, did not render the prosecution case doubtful in view of the credible and trustworthy depositions of the police officials. Consequently, the Trial Court concluded that the prosecution had successfully proved that the appellant Anita @ Neeta was found in conscious possession of 10 kilograms of *Ganja*, constituting an intermediate quantity, and accordingly convicted her under Section 20(b)(ii)(B) of the NDPS Act.

7. This Court has perused the record and the judgment of the learned Trial Court. The conviction of the appellant rests primarily on the testimonies of the recovery witnesses whose evidence remained consistent. Their version stood corroborated by the seizure memos, FSL report, and other contemporaneous documents prepared during the investigation. Accordingly, the conviction of the appellant under Section 20(b)(ii)(B) of the NDPS Act is affirmed.

8. The appellant Anita @ Neeta has joined the proceedings through video conferencing, along with her learned counsel. Learned counsel appearing on behalf of the appellant submits, on instructions, that the appellant having understood the consequences, does not wish to press the appeal on merits. It is submitted that the appellant confines her prayer to the



quantum of sentence, and seeks that the sentence be modified to the period of incarceration already undergone. Lastly, it is submitted that the appellant is aged 42 years old, has five children and she has no husband to support her.

9. Learned APP for the State has handed over a status report, which is taken on record. The report also indicates that the appellant has no other criminal involvement.

10. As per the latest nominal roll dated 06.10.2025, the appellant has undergone approximately two years and one month in custody. It is further recorded that the fine amount has been paid and the appellant has no other criminal involvement.

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 hereinafter:

'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. This Court has examined the record and the judgment of the Trial Court. The conviction of the appellant, based on the proved recovery of 10 kilograms of Ganja and the consistent testimonies of the investigating witnesses, discloses no infirmity warranting interference. The conviction under Section 20(b)(ii)(B) of the NDPS Act is, therefore, upheld.

13. However, having regard to the mitigating circumstances, including the fact that the appellant is a woman with five dependent children and no husband to support her, and that she has already undergone more than two years of incarceration out of the total sentence of three years awarded, has paid the fine amount, and has no other criminal involvement, this Court is of the considered view that the ends of justice would be adequately met if her substantive sentence is confined to the period already undergone.

14. Consequently, while upholding the conviction of the appellant Anita @ Neeta for the offence under Section 20(b)(ii)(B) of the NDPS Act, 1985, the substantive sentence imposed upon her is modified to the period already undergone.

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

16. Her bail bonds and sureties shall stand cancelled and discharged forthwith

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



Superintendent for information and necessary compliance.

MANOJ KUMAR OHRI, J

NOVEMBER 6, 2025

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