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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 641/2017**
SHAMBHU NATH @ SAMBHUAppellant
Through: Mr. S.B. Dandapani, Advocate,
(through VC)

versus

STATERespondent
Through: Mr. Pradeep Gahalot, APP for State
with SI Pramod Kumar

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
21.11.2025

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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), Dwarka Courts, New Delhi in SC No. 441164/2016, arising out of FIR No. 100/2013, registered at P.S. Crime Branch, whereby the appellant was convicted for the offence punishable under Section 21(b) of the NDPS Act.
2. Vide the impugned order on sentence, the appellant was sentenced to undergo Rigorous Imprisonment for five years and to pay a fine of Rs.30,000/-, and in default of payment of fine, to further undergo simple imprisonment for three months, for the offence under Section 21(b) NDPS Act. The benefit under Section 428 Cr.P.C. was extended to him.



3. The sentence of the appellant was thereafter suspended vide order dated 24.07.2017 passed by this Court, and the appellant was released from jail on 31.07.2017.

4. Briefly stated, the case of the prosecution was that on 04.06.2013, on the basis of secret information received at Narcotics Cell, a raiding team was constituted, and the appellant along with his co-accused was apprehended beneath the foot-over bridge near Dhaula Kuan. From the personal search of the appellant, a black polythene bag containing 200 grams of heroin was recovered.

5. During trial, the prosecution examined eleven witnesses, including the members of the raiding team, the officers associated with the seizure, arrest and investigation, and the FSL expert. The recovery, sealing, deposit of case property, dispatch of samples and the FSL results were proved.

In his statement under Section 313 Cr.P.C., the appellant denied the allegations and claimed false implication alleging that he had been picked up from another location. He led no defence evidence.

6. Upon appreciation of evidence, the Trial Court found that the prosecution had proved the recovery of heroin from the appellant beyond reasonable doubt. The learned Special Judge accordingly convicted the appellant for the offence under Section 21(b) NDPS Act, while acquitting him of the charge under Section 29 NDPS Act.

7. On a perusal of the record, this Court finds no infirmity in the reasoning adopted by the 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. His gate pass has been handed over and is taken on record. Learned counsel for the appellant, on instructions, submits that the appellant does not wish to press the appeal on merits and confines his submissions to seeking modification of the sentence to the period already undergone. He further submits that the appellant is not found involved in any other case. Lastly, he submits that the appellant is 45 years old, presently working as a hawker, he has his wife and three children dependent on him.

9. The learned APP for the state has mentioned that the appellant was involved in another case, however, he is found acquitted in that.

10. As per the Nominal Roll dated 18.11.2025, the appellant has undergone a total custody period of about 4 years and 2 months. The fine imposed by the Trial Court is recorded as unpaid.

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. Having regard to the overall circumstances, the period of custody undergone, his satisfactory jail conduct, his family circumstances, and the absence of any other criminal antecedents, this Court is of the view that the ends of justice would be adequately met by modifying the sentence to the period already undergone.

13. The conviction of the appellant under Section 21(b) NDPS Act is affirmed. The appellant shall deposit the fine imposed Rs. 30,000/- by the Trial Court within a period of four weeks from today and to furnish proof of such deposit before the IO. In case of default, the appellant shall undergo the default sentence as imposed by the Trial Court.

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

15. Subject to payment of fine, the bail bonds furnished by the appellant stand cancelled and his sureties are discharged.

16. 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 21, 2025

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