



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

% Date of Decision: 11.08.2025

+ **CRL.A. 67/2016 and CRL.M.A. 1000/2016**

STATE (NCT OF DELHI)

..... Appellant

Through: Ms. Shubhi Gupta, APP for the State

Versus

MUNISH YADAV

..... Respondent

Through: Mr. Jay Kishor Singh, Mr. Dharmendra Kumar and Mr. Mohit Raj, Advocates

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present appeal was originally filed against two respondents. The Court recorded in its order dated 08.12.2017 that respondent no. 2 had expired, and accordingly, the proceedings qua him stood abated. A report in this regard was submitted by the SHO, P.S. Kashmere Gate, along with the death certificate, and the same is on record. An amended memo of parties dated 19.08.2019 was thereafter filed, and the present order is thus confined to respondent no. 1, *Munish Yadav*.

2. By way of the present appeal filed under Section 377 Cr.P.C., the State, being aggrieved by the inadequacy of the sentence imposed on the respondent by the Trial Court, seeks enhancement of the same.

3. Pertinently, the respondent faced trial in FIR no. 145/2012, registered



at P.S. Kashmere Gate under Sections 20/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS), and was convicted on 13.04.2015, for the offence punishable under Section 20(b)(ii)(B) NDPS.

Vide the order on sentence dated 17.04.2015, the Trial Court, while considering that the respondent was not involved in any other cases and that he was found in possession of intermediate quantity of *ganja*, sentenced him to RI for 15 months alongwith a fine of Rs.1,000/-, in default whereof he was directed to undergo SI for 2 days. The benefit of Section 428 Cr.P.C. was granted to the respondent.

4. Learned APP for the State contends that the *ganja* recovered from the respondent, being 10.5 kilograms, falls within the definition of intermediate quantity under the NDPS Act. He states that the respondent was found in conscious possession of the said quantity, and the recovery stands duly corroborated by the testimonies of PW-6/HC *Om Parkash*, PW-8/Ct. *Ram Phal*, and PW-9/ASI *Dalbir Singh*. The FSL result confirmed the seized substance to be *ganja*. In such circumstances, the imposition of a sentence of fifteen months' imprisonment and Rs.1,000/- fine is grossly inadequate, considering the gravity of the offence.

5. Learned counsel for the respondent, on the other hand, states that the respondent has not assailed the conviction and submits that the respondent has no other criminal antecedents. He also places reliance on a decision of the Supreme Court titled Aarikatla Musalaiah Vs. The State of Andhra Pradesh, decided on 02.12.2024, in **SLP (Crl.) No. 11378/2024**, in support of his plea for leniency. He further states, on instructions from the respondent who is present in Court, that the respondent is willing to pay an increased fine of Rs.5,000/- in place of Rs.1,000/- fine imposed upon him by



the Trial Court.

6. Briefly noted, the facts as borne out from the record are that on 09.07.2012, at about 8:20 PM, while on routine patrol near the foot over bridge at the outgate of ISBT, Kashmere Gate, the police noticed the respondent acting suspiciously and intercepted him. He was carrying a white plastic *katta*, which on checking was found to contain 10.5 kilograms of dried leaves resembling *ganja*. A sample was drawn, sealed, and sent to the FSL, which confirmed the contents to be *ganja*. On the strength of this recovery and supporting evidence, the respondent was convicted under Section 20(b)(ii)(B) NDPS.

7. In *Aarikatla Musalaiah* (supra), an intermediate quantity of 4 kilograms of *ganja* was seized from the offender, he was convicted under Section 20(b)(ii)(B) NDPS, and sentenced to undergo rigorous imprisonment for 5 years by the Trial Court. However, the sentence was reduced to 2 ½ years by the High Court, and having regard to the mitigating circumstances, the Supreme Court released the convict by reducing his sentence to the period already undergone, when he had served 6 months under incarceration.

8. A perusal of the impugned order on sentence shows that the Trial Court took into account that the respondent had already remained in judicial custody for fifteen months and two days by that point, that this was the only case in which he was involved, and that the quantity recovered was 10.5 kilograms of *ganja*, falling in the intermediate category. On these considerations, the Trial Court sentenced him to rigorous imprisonment for fifteen months with a fine of Rs.1,000/-, and in default, simple imprisonment for two days.



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9. The latest nominal roll on record dated 04.08.2025 confirms that the respondent has spent one year, three months, and six days under incarceration, including two days' simple imprisonment in lieu of payment of fine, and was released from jail on completion of his sentence on 19.04.2015. He has no other criminal involvements, and his conduct during incarceration was noted to be satisfactory. The respondent is stated to be a rickshaw puller by profession. Notably, the incident pertains to the year 2012 and more than 13 years have since elapsed.

10. This Court is of the considered view that, in the facts and circumstances of the present case, the ends of justice would be met if a further fine of Rs.5,000/- is imposed upon the respondent. The respondent shall deposit the said fine amount with the Trial Court within two weeks.

11. The present appeal is disposed of in the aforesaid terms, along with pending applications, if any.

12. A copy of this decision be sent to the Trial Court.

MANOJ KUMAR OHRI
(JUDGE)

AUGUST 11, 2025/nb
(corrected & released on 19.08.2025)