CGHC010081872026 2026:CGHC:44232

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 615 of 2026

Shiv Kumar S/o Ramesh Kukreja Aged About 21 Years Resident Of Banjari Rawan Bhata, Ward No. 12, Raipur, P.S. Khamtarai District Raipur Chhattisgarh

... Appellant

In Jail

versus

State Of Chhattisgarh Through- Station House Officer, Police Station- Pithora, District Mahasamund (C.G.)

... Respondent

For Appellant	:	Mr. CR Sahu, Advocate.
For Respondent/State	:	Mr. Sachchidanand Yadav, Panel Lawyer.

Hon'ble Shri Justice Naresh Kumar Chandravanshi, J

Judgment On Board

(12th October, 2026)

This criminal appeal under Section 415(2) of BNSS, 2023 has been preferred challenging the judgment of conviction and order of sentence dated 6.1.2026 passed by Special Judge (NDPS Act),

Mahasamund in Special Criminal (NDPS Act) Case No.H-02/2014 whereby the appellant stands convicted under Section 20(b)(ii)(B) of Narcotic Drugs and Psychotropic Substances Act and sentenced to undergo RI for five years, pay a fine of Rs.20,000/- and in default thereof to suffer six months' additional RI.

2. Case of the prosecution, in brief, is that on 27.11.2013, Assistant Sub-Inspector Subhash Pawar, In-charge of the Crime Branch, along with his staff, was proceeding towards the Pithora-Bundeli area for crime detection and tracing offenders. During the course of the operation, he received secret information that persons carrying *Ganja* for sale were coming from the Odisha side towards Bundeli on motorcycles. Acting on the information, he proceeded to Village Lilesar with his staff and laid a blockade. Shortly thereafter, four persons riding two motorcycles arrived at the spot. Upon stopping and searching them and their vehicles, *Ganja* was allegedly recovered from their possession. From a grey-coloured, unregistered Honda Shine motorcycle belonging to accused Shiv Kumar and Manish Kumar, 6.300 kg of *Ganja* concealed in a makeshift seat cover made of a thin blanket and 3.800 kg of *Ganja* kept in a black airbag bearing the word "PRIORITY" were recovered. From a Hero Honda Splendor motorcycle bearing registration No.CG-04-KC-3789, belonging to accused Devendra Singh and a juvenile, 8.200 kg of *Ganja* concealed inside a mud-coloured jerrycan whose bottom had been cut open was recovered. Samples weighing 50 grams each were drawn from the

seized packets, comprising six sample packets of *Ganja* and three sample packets of burnt *Ganja*. The remaining contraband and the samples were separately sealed and seized. After returning to the police station, Crime No. 392/2013 was registered against the accused persons under Section 20(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act). The accused were informed of the grounds of their arrest, and their family members were notified of their arrest. The seized contraband and samples were deposited with the police station's *Malkhana Moharrir* for safe custody. The samples were subsequently sent through the Superintendent of Police, Mahasamund, to the Regional Forensic Science Laboratory, Raipur, for examination. According to the FSL report, the samples tested positive for *Ganja*. Upon completion of the investigation, the charge-sheet was filed before the competent court on 01.01.2014 for trial.

3. Learned trial Court framed charge against the accused persons under Section 20(b)(ii)(B) of NDPS Act which was denied by them. The prosecution, in order to prove its case, examined as many as 12 witnesses. Thereafter, statements of the accused persons under Section 313 of CrPC were recorded in which they denied all the incriminating circumstances appearing against them in the prosecution case, pleaded innocence and false implication. However, they did not examine any witness in their defence.

4. Learned trial Court after hearing counsel for the respective parties and appreciation of oral and documentary evidence on record,

by the impugned judgment convicted and sentenced the accused persons as mentioned in the opening paragraph of this judgment. Hence this appeal.

5. At the outset, learned counsel for the appellant would submit that he does not want to press this appeal with regard to conviction part of the impugned judgment against the appellant, rather he would confine his arguments only to the sentence part. He submits that considering the quantity of contraband seized from the appellant, the age of the appellant at the time of incident i.e. 21 years, the fact that he has already served jail sentence of one year and five months till date and has deposited the entire fine amount, his sentence may reduced to the period already undergone by him.

6. Per contra, learned counsel for the State would support the impugned judgment and submit that the learned trial Court upon minute appreciation of oral and documentary evidence on record has rightly convicted and sentenced the appellant by the impugned judgment, which calls for no interference by this Court.

7. Heard learned counsel for the parties and perused the material available on record including the impugned judgment.

8. Though learned counsel for the appellant is not pressing this appeal on conviction part of the impugned judgment but the Court has to see whether his conviction is based on proper appreciation of the oral and documentary evidence on record.

9. Upon perusal of the record, it appears that on 27.11.2013, PW-12 Subhash Pawar, In-charge of the Crime Branch, Mahasamund, along with his staff, proceeded towards the Pithora-Bundeli area for the detection of offences and tracing of accused persons. During the course of the operation, he received secret information that certain persons were transporting ganja from the Odisha side towards Bundeli. Acting upon the said information, the police party proceeded to Village Bundeli and, after making the requisite entry in the Rojnamcha Sanha, summoned independent witnesses, namely, PW-11 Parshuram and PW-8 Dinesh Sahu, and apprised them of the information received. A panchnama recording the information and the inability to obtain a search warrant was prepared, and Constable PW-2 Runsay Giri was deputed to the office of the SDOP, Pithora. Thereafter, four persons were seen approaching from the direction of Lilesar on two motorcycles. Suspecting their involvement in the transportation of contraband, the police party intercepted them and conducted a search. Upon the substance appearing to be ganja, notices under Section 50 of the NDPS Act were served upon the accused persons, informing them of their right to be searched before a Magistrate or a Gazetted Officer. The accused persons consented to be searched by the police. Accordingly, searches were conducted in the presence of the police personnel and the witnesses, resulting in the recovery of suspected ganja concealed in a jerrycan, a makeshift seat cavity, and a bag. A seizure panchnama was prepared. The recovered substance was

examined by rubbing, smelling, tasting, and burning, and was identified as *Ganja*. It was thereafter weighed using an electronic weighing machine, and samples of 50 grams each were drawn for chemical examination. A panchnama identifying the narcotic substance was also prepared, and the seized *Ganja* was homogenized and sealed. The sealed contraband was deposited with PW-5 Laxmi Dubey, the Malkhana In-charge of Police Station Pithora. Subsequently, on the basis of the Dehati FIR, Crime No. 392/2013 was registered at Police Station Pithora against the accused persons under Section 20(b) of the NDPS Act.

10. Upon consideration of the record, it appears that the Investigating Officer complied with the mandatory requirements of Sections 42(1) and 42(2) of the NDPS Act, 1985, and informed the superior Gazetted Officer before effecting the recovery of *Ganja* from the possession of the accused. The Investigating Officer also complied with the requirements of Sections 52A, 55, and 57 of the NDPS Act. Samples weighing 50 grams each were drawn and sent for forensic examination, and the FSL report confirmed the presence of *Ganja*. Upon considering the material available on record and the evidence adduced by the prosecution witnesses, the trial Court convicted the appellant for the offence under Section 20(b)(ii)(B) of the NDPS Act and sentenced him to undergo rigorous imprisonment for five years and to pay a fine of ₹20,000/-. Having considered the evidence and material available on record, this Court finds no illegality or infirmity in

the findings recorded by the trial Court warranting interference with the appellant's conviction. Accordingly, the conviction of the appellant is affirmed.

11. As regards the sentence, it is pertinent to note that the appellant has been facing criminal proceedings since 2014, and more than twelve years have elapsed since then. Having regard to the quantity of *Ganja* seized from his possession, i.e., 8.200 kg, the fact that he has no criminal antecedents under the NDPS Act as admitted by the State counsel; this Court is of the opinion that ends of justice would be served if his substantive jail sentence is reduced from five years' RI to two years' RI while keeping imposition of fine sentence of Rs.20,000/- by the trial court intact.

12. In the result, the appeal is partly allowed. While maintaining conviction of the appellant under Section 20(b)(ii)(B) of the NDPS Act, the substantive jail sentence of five years awarded thereunder by learned trial Court is hereby reduced to two years' RI. However, the fine sentence of Rs.20,000/- imposed by the trial Court with default stipulation shall remain intact.

13. The appellant is said to have deposited the entire fine amount. He is reported to be in jail, therefore, he shall serve out the remaining part of the substantive jail sentence.

14. The record of the trial Court along with copy of this judgment be sent back immediately to the trial Court as well as the Jail Superintendent concerned for compliance and needful, if any.

Sd/
(Naresh Kumar Chandravanshi)
Judge

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