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HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 606 of 2025

1 - Arjun Singh S/o Shri Sarjeet Singh Aged About 22 Years R/o Sunder Nagar Ward No. 16, Hoshiyarpur, Police Station- Purhira, Distt.- Hoshiyarpur (Punjab)

... Appellant

versus

1 - State Of Chhattisgarh Through Station House Officer, Police Station- Keshkal, Distt.- Kondagaon, (C.G.)

... Respondent

(Cause title taken from Case Information System)

For Appellant	**:**	Ms. Kiran Jain and Mr. Rajesh Jain, Advocates.
For Respondent / State	**:**	Mr. Sachchidanand Yadav, Panel Lawyer.

Hon'ble Shri Justice Naresh Kumar Chandravanshi

Order on Board

27/10/2026

1. This criminal appeal has been preferred by appellant under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for brevity ‘BNSS’), challenging the judgment of conviction and order of sentence dated 03.02.2025 passed by learned Special Judge, NDPS Act, 1985, District Kondagaon (CG) in Special Criminal Case (N.D.P.S. Act, 1985)

No.24/2020, whereby the appellant has been convicted for the offence punishable under Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (henceforth referred to as “NDPS Act”) and sentenced to undergo rigorous imprisonment for 10 years with a fine of Rs.1,00,000/-, and in default of payment of fine, to undergo additional rigorous imprisonment for one year.

2. Facts of the case, in nutshell, are that on 15.08.2020, at about 01:30 p.m., on the basis of secret information received from informant, the police intercepted a Skoda car bearing registration No. DL-04-CR-6222 near Police Station Keshkal, District Kondagaon (C.G.). The appellant was travelling in the said vehicle along with other co-accused persons. Upon search of the vehicle, three packets containing ganja were found concealed inside a wooden hand drum (ढोलक). The contraband substance, along with the wooden hand drum, was weighed, and the total weight was recorded as 29.430 kg. After completion of necessary formalities as provided under the law, the contraband substance was seized from joint possession of accused persons, Taul panchnama and other panchnama were prepared, spot map (Ex. P-25) was also prepared, the appellant was arrested in connection with the offence under the NDPS Act, the statements of witnesses were recorded and Dehati Nalisi (Ex. P-22) was recorded on the spot, based on which, FIR (Ex. P-23) was registered. During the course of the investigation, the seized contraband substance was weighed and subjected to homogenization and sampling. As recorded in the weighing panchnama (Ex. P-66), the weight of the ganja, excluding the weight of the wooden hand drum, was found to be 10.900 kg. Subsequently, as reflected in the homogenization, weighing and sample panchnama (Ex. P-67), two samples of 50 grams each, marked as X-1

and X-2, were prepared, and the remaining substance was kept in two plastic sacks marked as B-1 and B-2, weighing 14.050 kg and 10.100 kg, respectively. The sample was sent to the Forensic Science Laboratory for examination, and, as per the FSL report (Ex. P-21), the sample marked X-1 was found to be *ganja*. After completion of the investigation, the charge-sheet was filed against the appellant and other accused persons under Section 20(b)(ii)(C) of the NDPS Act. The case was tried by the learned Special Judge under the NDPS Act, District Kondagaon (C.G.).

3. The charge under Section 20(b)(ii)(C) of the NDPS Act was framed and explained to the appellant, who abjured his guilt and claimed trial.

4. In order to prove the guilt of appellant, the prosecution examined 13 witnesses and exhibited 82 documents along with Articles A-1 to A-5. Statement of the appellant under Section 313 of the Cr.P.C. was recorded, in which, he denied all the incriminating circumstances appearing against him and pleaded his innocence. However, he did not examine any witness in his defence.

5. Learned Special Court after appreciating the evidence adduced by the prosecution, convicted and sentenced the appellant under Section 20(b)(ii)(C) of the NDPS Act and sentenced him as mentioned in opening paragraph of this judgment. Hence, this appeal.

6. Learned counsel for the appellant submits that she does not wish to challenge the finding of conviction to the extent that the appellant has been found guilty of an offence under Section 20 of the NDPS Act. However, she challenges the conviction of the appellant under Section 20(b)(ii)(C) of the NDPS Act on the ground that the quantity of the seized contraband substance has not been properly established. She submits that, as per the weighing panchnama (Ex. P-66) and the prosecution case,

the alleged contraband substance was kept in three packets, which were placed inside a wooden hand drum (ढोलक). Upon weighing the contraband substance contained in the three packets, its total weight was found to be 10.900 kg, excluding the weight of the wooden hand drum, which was recorded as 18.530 kg. Thus, the total weight of the alleged contraband substance along with the wooden hand drum was recorded as 29.430 kg. However, as per the homogenization, weighing and sample panchnama (Ex. P-67), after homogenization of the contraband substance and preparation of two samples of 50 grams each, marked as X-1 and X-2, the remaining contraband substance was kept in two plastic sacks marked as B-1 and B-2. The weights of the two sacks were recorded as 14.050 kg and 10.100 kg, respectively, totalling 24.150 kg. Thus, there is a contradiction regarding the total weight of the alleged contraband substance. She, therefore, submits that, as per Ex. P-66, the weight of ganja, excluding the weight of the wooden hand drum, was only 10.900 kg. Accordingly, the conviction of the appellant under Section 20(b)(ii)(C) of the NDPS Act deserves to be modified to under Section 20(b)(ii)(B) of the NDPS Act. Learned counsel further submits that the appellant has remained in custody since the date of his arrest, i.e., 15.08.2020, and has undergone approximately 6 years & 2 months of imprisonment. Therefore, his substantive sentence may be reduced to the period already undergone by him.

7. *Per contra*, learned State counsel supported the impugned judgment and submits that the contraband substance seized from the Skoda car bearing registration No. DL-04-CR-6222 was of commercial quantity. However, having regard to Ex. P-66, Ex. P-67 and the deposition of Omkar Banjare (PW-12), the Investigating Officer, learned State counsel fairly

acknowledges that there is a discrepancy regarding the total quantity of the alleged contraband substance recorded in the aforesaid documents. He nevertheless submits that the impugned judgment does not warrant any interference by this Court.

8. Heard learned counsel for the parties and perused the material available on record.

9. Having gone through the deposition of Omkar Banjare (PW-12), who is the Investigating Officer in the present case, it is evident that he has specifically stated that, on the basis of secret information received from an informant, the aforesaid Skoda car was intercepted, in which the appellant was travelling along with other accused persons. Upon search of the vehicle, the alleged contraband substance was found in three packets kept inside a wooden hand drum (ढोलक). The aforesaid facts are also supported by the testimonies of the accompanying police personnel, namely, Constable Lileshwar Kumar Dhruw (PW-3) and Constable Mahendra Kumar Netam (PW-5). It has also been proved by Omkar Banjare (PW-12) and Malkhana Muharrir Thansingh Chandravanshi (PW-13) that, after seizure, the alleged contraband substance was deposited in the malkhana of Police Station Keshkal. Subsequently, the sample was sent to the Forensic Science Laboratory through Ishwar Singh Dhruw (PW-6) vide memo (Ex. P-7) issued by the Superintendent of Police, Kondagaon. As per the FSL report (Ex. P-21), the sample marked X-1 was found to be ganja. Having considered the testimonies of the aforesaid witnesses and the other prosecution witnesses, this Court does not find any perversity or illegality in holding the appellant guilty for the offence punishable under Section 20 of the NDPS Act.

10. As far as the quantity of the alleged contraband substance ganja is concerned, there is a discrepancy regarding its weight, which is evident from Ex. P-66, Ex. P-67 and the deposition of the Investigating Officer, Omkar Banjare (PW-12). Because as per the weighing panchnama (Ex. P-66), the total quantity of ganja, excluding the weight of the wooden hand drum (ढोलक), was found to be 10.900 kg. However, as recorded in the homogenization, weighing and sample panchnama (Ex. P-67), after homogenization of the ganja and preparation of two samples, the remaining substance was kept in two plastic sacks marked as B-1 and B-2, weighing 14.050 kg and 10.100 kg, respectively, with a total weight of 24.150 kg. This fact has also been stated by Investigating Officer Omkar Banjare (PW-12). Thus, there is a discrepancy regarding the total weight of the alleged ganja. However, on this ground alone, the entire prosecution evidence cannot be discarded. Upon consideration of the evidence adduced by the prosecution witnesses, it is very well proved that ganja of intermediate quantity was seized from the appellant in the present case. Therefore, the appellant's conviction under Section 20(b)(ii)(C) of the NDPS Act is not sustainable and deserves to be modified to under Section 20(b)(ii)(B) of the NDPS Act.

11. So far as the sentence part is concerned, as per the record of the learned Special Court, the appellant has remained in custody since the date of his arrest, i.e., 15.08.2020 till date. Having regard to the period of detention undergone by the appellant and the quantity of ganja established in the present case, this Court is of the view that the ends of justice would be served by reducing the substantive sentence imposed upon the appellant to the period already undergone by him and by reducing the fine amount as well.

12. Accordingly, the conviction of the appellant for the offence punishable under Section 20(b)(ii)(C) of the NDPS Act is modified, and he is instead convicted for the offence punishable under Section 20(b)(ii)(B) of the NDPS Act. His substantive sentence is reduced to the period already undergone by him, i.e., from 15.08.2020 to till date. The fine amount imposed upon the appellant is also reduced from Rs.1,00,000/- to Rs.25,000/-, and in default of payment of the aforesaid fine amount, the appellant shall undergo additional rigorous imprisonment for three months.

13. Consequently, the present criminal appeal is **partly allowed** to the extent indicated hereinabove.

14. The appellant is reported to be in jail. Accordingly, he shall be released forthwith, if not required to be detained in connection with any other offence.

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

16. Pending interlocutory application(s), if any, stands disposed of.

Sd/-
(Naresh Kumar Chandravanshi)
Judge

Rukhsar