



CGHC010176472026 2026:CGHC:46927

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1232 of 2026

1 - Moti Raikawar S/o. Mitthan Raikawar Aged About 40 Years R/o. Village Bandhak Kund, Thana- Hindoria, Dist.- Damoh, Presently, Sagar Naka, Pinky Pandey's House, Damoh, Thana- Kotwali, District- Damoh (M.P.)

... Appellant

versus

1 - State Of Chhattisgarh Through Police Station Purani Basti, District- Raipur (C.G.)

... Respondent

For Appellant : Ms. Ashta Shukla, Advocate.
For Respondent/State : Ms. Anmol Sharma, P.L.

Hon'ble Shri Justice Naresh Kumar Chandravanshi

Judgment on Board

05/11/2026

1. This appeal has been preferred by the appellant under Section 415 (2) of the Bharatiya Nagarik Suraksha Sanhit, 2023 (for short “BNSS”), challenging the judgment of conviction and order of sentence dated 08.01.2026 passed by the learned Special Judge, (N.D.P.S. Act),

Raipur, District – Raipur, Chhattisgarh (henceforth referred to as “Special Court”), in Special Criminal Case No. 289/2024 whereby the learned Special Judge has convicted and sentenced the appellant as under :

Conviction	Sentence
U/s 20(b)(ii)(B) of N.D.P.S. Act	R.I. for 3 years with fine of Rs. 25,000/-, and in default of payment of fine amount, additional R.I. for 6 months.

2. As per the prosecution's case, on 07.11.2024, the I.O. Jeevan Lal Parkar (PW-6), received secret information from informer that two persons were looking for customers to sell ganja in front of Hanuman Temple, Purani Basti. Thereafter, the police surrounded them and seized 2.250 kg ganja from the present appellant and 4.720 kg ganja from co-accused – Hiralal Sahu. After due procedure, the appellant and co-accused were arrested, and offence was registered against the accused persons and after due investigation charge sheet was filed against the accused persons.

3. So as to hold the accused/appellant guilty, the prosecution has examined as many as 9 witnesses and exhibited 65 documents. The statement of the appellant also recorded under Section 313 of the Cr.P.C. in which he denied the incriminating circumstances appearing against him and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 08.01.2026, learned Special Judge has convicted and sentenced the appellant and co-accused as mentioned in para-1 of this judgment. Hence, the present appeal.

5. Learned counsel for the appellant submits that she is not pressing the appeal insofar as the conviction is concerned and is confining her arguments only to the question of sentence. According to her, the incident took place on 07.11.2024, and only 2.250 kg of ganja was seized from the possession of the present appellant. The appellant remained in jail from 07.11.2024 to 24.02.2025 and again from 08.01.2026 till date, and is still undergoing the sentence. She further submits that the appellant is presently aged about 42 years and has no criminal antecedents. Therefore, in the interest of justice, it would be appropriate if the sentence imposed upon the present appellant may be reduced to the period already undergone by him and he may be released from jail.

6. Per contra, learned counsel appearing for the State, supporting the impugned judgment, opposed the arguments advanced on behalf of the appellant.

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

8. Having gone through the material on record and the evidence of the witnesses Sunil Tiwari (PW-3), Jeevan Lal Parkar (PW-6), Manohar Lal Ganjir (PW-7), Naresh Kumar Markam (PW-8) and Pardeshi Ram Katare (PW-9), establishes the involvement of the accused/appellant in the crime in question. Thus, considering the oral and documentary evidence on record the seizure of Ganja from the possession of the accused/appellant which was subsequently found to be Ganja as per FSL report vide Ex. P-60. This Court does not see any illegality in the findings recorded by the learned Special Court as regards conviction of

the appellant under Section 20(b)(ii)(B) of Narcotic Drugs and Psychotropic Substances Act.

9. As regards sentence, in the matter of **Mohammad Giasuddin v. State of Andhra Pradesh** reported in **(1977) 3 SCC 287**, Hon’ble Supreme Court has observed that if you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries and held in para-9 as follows:

> “9. Western jurisprudes and 'sociologists, from their own angle have struck a like note. Sir Samual Romilly, critical of the brutal penalties in the then Britain, said in 1817 :
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> “The laws of England are written in blood". Alfieri has suggested : 'society prepares the crime, the criminal commits it’. George Nicodotis, Director of Criminological Research Centre, Athens, Greece, maintains that 'Crime is the result of the lack of the right kind of education.' It is thus plain that crime is a pathological aberration, that the criminal can ordinarily be redeemed, that the State has to rehabilitate rather than avenge. The sub-culture that leads to anti-social behaviour has to be countered not by undue cruelty but by re-culturisation. Therefore, the focus of interest in penology is the individual, and goal is salvaging him for society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today views sentencing as a process of reshaping a person who has deteriorated into criminality and the modern community has a primary stake in the rehabilitation of the offender as a means of social defense. We, therefore consider a therapeutic, rather than an in 'terrorem' outlook, should prevail in our criminal courts, since brutal incarceration of the person merely produces laceration of his mind. In the words of George Bernard Shaw : 'If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries'. We may permit ourselves the liberty to quote from Judge Sir Jeoffrey Streatfield : “If you are going to have anything to do with the criminal Courts, you should see for yourself the conditions under which prisoners serve their sentences.”

10. In the light of the decision of the Supreme Court in the case of **Mohammad Giasuddin** (supra) and keeping in view the facts that the appellant has already undergone more than one year of imprisonment, is presently aged about 42 years; he is illiterate and is an farmer, this court is of the opinion that the ends of justice would be served if he is sentenced to the period already undergone by him while keeping the fine amount with default stipulation as imposed by the Special Court intact.

11. In the result, the appeal is **partly allowed**. While maintaining the conviction of the appellant under Section 20(b)(ii)(B) of the NDPS Act, his substantive jail sentence of rigorous imprisonment for three years is reduced to the period already undergone by him, i.e., from 07.11.2024 to 24.02.2025 and again from 08.01.2026 till date (more than one year). However, the fine imposed upon the appellant by the learned Special Court shall remain intact.

12. The appellant is reported to be in jail. He be released forthwith if not required in default of payment of fine amount and in any other case.

13. Let a certified copy of this judgment along with original record be transmitted forthwith to the Trial Court concerned as well as to the Superintendent of Jail where the appellant is languishing for information and necessary action, if any.

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

Sd/-
(Naresh Kumar Chandravanshi)
Judge

Rukhsar