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cn=AJAY KUMAR DWIVEDI, ou=HIGH COURT, o=HIGH COURT OF CHHATTISGARH, st=Chhattisgarh, c=IN

CGHC010263362024 2026:CGHC:45907

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HIGH COURT OF CHHATTISGARH AT BILASPUR

THE DATE WHEN THE CASE IS RESERVED	THE DATE WHEN THE JUDGMENT IS PRONOUNCED	THE DATE WHEN THE JUDGMENT IS UPLOADED ON THE WEBSITE	
		Operative	**Full**
05.10.2026	**30.10.2026**	****	**30.10.2026**

CRA No. 1435 of 2024

Ramdev Sinha S/o Shivram Sinha Aged About 36 Years R/o Guha-Borand Plotpara, P.S. Farasgaon District Kondagaon (C.G.)

... Appellant.

Versus

State Of Chhattisgarh Through The Police Station Farasgaon, District-Kondagaon (C.G.)

... Respondent.

(cause title downloaded from CIS Periphery)

For Appellant	:	Mr. Pravin Kumar Tulsyan with Mr. Vikas Patel, Advocates.
For Res/State	:	Mr. Siddharth Sharma, Panel Lawyer.

(Hon'ble Shri Justice Naresh Kumar Chandravanshi)

C A V Judgment

1. This Criminal Appeal preferred by the appellant under Section 415(2) of the Bhartiya Nagarik Suraksha Sanhita, 2023 (Henceforth "BNSS 2023") is directed against the judgment of conviction and order of sentence dated 26.06.2024 passed by the Special Judge, NDPS Act 1985, Kondagaon,

District Kondagaon (CG) in Special Criminal Case (NDPS Act 1985) No.25/2025, whereby, the learned trial Court convicted the appellant under Section 20(b)(ii-C) of the Narcotic Drugs and Psychotropic Substances Act 1985 and sentenced him to undergo RI for 10 years with fine of Rs.1,00,000/- (In default of payment of fine further undergo Additional RI for 1 year).

2. Case of the prosecution, in brief, is that on 23.05.2022, The Investigating Officer Rajkumar Komra (PW-13), Assistant Sub-Inspector at Police Station Farasgaon, received secret information from an informant that some persons are illegally transporting contraband Ganja in a silver-coloured Mahindra Bolero Pik-Up vehicle bearing registration No. CG-17-KJ-0941, proceeding from Gamhari, Randhana (Odisha) towards Farasgaon. The said information was entered into the Rojnamcha Sanha. Independent witnesses Harish Chandra Biswas and Yogendra Biswas were summoned through Head Constable Salim Tigga (PW-10). Due to urgency and lack of immediate access to the Sub-Divisional Officer (Police), Farasgaon, a memo of inability to obtain a search warrant was prepared under Section 42 of the NDPS Act. Thereafter, the police team along with independent witnesses proceeded to the main road near the forest between Barkai and Kumhagaon leading to Balodiapara and laid a barricade. At about 09:45 a.m., the suspected vehicle bearing registration No. CG-17-KJ-0941 arrived and was intercepted. Two occupants sitting next to the driver fled into the forest, while the driver was apprehended and identified as Ramdev Sinha (the present appellant).

3. After issuing notice under Section 50 of the NDPS Act (Ex. P-49) and obtaining his written consent (Ex. P-51), search of the offending vehicle was conducted. In the rear cargo bed (dala) of the pickup vehicle, underneath a

blue polythene sheet, 05 large packets wrapped with brown adhesive tape were recovered. On physical verification through testing, smelling, rubbing, and burning, the seized substance was found to be *Ganja*. Electronic weighing scale verification was conducted and upon weighment the 05 packets marked as Ex. A-1 to A-5 weighed a total of 74.019 kg. The contents of all 5 packets were mixed homogeneously (samras) on a tarpaulin, out of which two representative samples of 100 grams each, marked as X-1 and X-2, were prepared and sealed, while the remaining bulk was packed and sealed in 05 white plastic sacks marked as Ex. B-1 to B-5. The empty tape was packed into Ex. B-6. Seizure memo (Ex. P-67) was prepared and the appellant was arrested. Dehati Nalsi (Ex. P-18) was drawn, on the basis of which regular FIR No. 56/2022 (Ex. P-19) was registered at P.S. Farasgaon by Inspector Harinandan Singh (PW-6). The seized property was deposited in the Malkhana of P.S. Farasgaon with Moharrir Vijay Kumar Pareshwar (PW-5) vide Ex. P-16. Subsequently, upon chemical examination, the FSL report (Ex. P-74) confirmed the seized contraband to be Ganja. After concluding investigation, charge-sheet was filed before the Special Court, Kondagaon.

4. The learned Special Judge framed the charge against the appellant under Section 20(b)(ii)(C) of the NDPS Act. The appellant abjured his guilt, pleaded innocence, and claimed for trial. In order to bring home the offence, the prosecution examined 14 witnesses and exhibited 74 documents along with physical articles.

5. The statement of the appellant was recorded under Section 313 of the Code of Criminal Procedure, 1973, wherein he denied all incriminating circumstances appearing against him in the prosecution evidence, pleaded

total innocence, and stated that he has been falsely implicated by the police. However, he did not examine any witness in his defence.

6. Upon appreciation of the oral and documentary evidence on record, the learned Special Judge, by the impugned judgment dated 26.06.2024, held that the prosecution had proved the charges beyond reasonable doubt, convicted the appellant under Section 20(b)(ii)(C) of the NDPS Act, and sentenced him as mentioned hereinabove. Aggrieved by the said conviction and sentence, the appellant has preferred the present appeal.

7. Learned counsel for the appellant would submit that the impugned judgment of conviction and order of sentence are not sustainable in law and same have been passed without proper appreciation of the evidence on record. He further submits that there are material contradictions in the prosecution evidence. As per the weighing panchnama (Ex. P-64), 5 packets containing the alleged contraband substance, weighing a total of 74.019 kg, were recovered from the rear portion of the offending vehicle driven by the appellant and were marked as Articles A-1 to A-5. After mixing the contents of all 5 packets, two samples weighing 100 grams each were prepared and marked as Articles X-1 and X-2, while the remaining contraband was kept in 5 sacks marked as Articles B-1 to B-5. The Malkhana Moharrir, namely, Vijay Kumar Pareshwar (PW-5), has stated that the 5 plastic sacks, allegedly marked as Articles A-1 to A-5, were handed over to him vide receipt (Ex. P-16). However, the Malkhana Register (Ex. P-17C) records that the contraband substance was handed over to him in 5 packets and not in 5 sacks. Thus, there is a contradiction in the prosecution evidence as to whether the alleged Ganja was deposited in the Malkhana in five packets or five sacks.

7.1) Learned counsel further submits that, according to the deposition of the Investigating Officer, Rajkumar Komra (PW-13), after mixing (samras) the contents of the five packets, two sample packets weighing 100 grams each were prepared and marked as Articles X-1 and X-2. However, the Malkhana Moharrir (PW-5) admitted in his cross-examination that, vide receipt (Ex. P-16), only 5 packets, marked as Articles A-1 to A-5, were handed over to him. He also admitted in his cross-examination that neither the receipt (Ex. P-16) nor the Malkhana Register (Ex. P-17) contains any endorsement regarding the deposit of the two samples, Articles X-1 and X-2, in the Malkhana. Further, Ex. P-65 shows that the mixing and sampling panchnama was prepared on 25.03.2022, whereas the alleged contraband was seized and deposited in the Malkhana of Police Station Farasgaon on 23.05.2022. These contradictions indicate material irregularities in the investigation, particularly with regard to the preparation of samples and the handling of the alleged contraband.

7.2) Learned counsel further submits that, as per the Malkhana Register (Ex. P-17), a sample weighing 100 grams was taken out for being sent to the FSL, Jagdalpur, on 24.06.2026, whereas as per Ex.P-22 (Duty Certificate) and Ex.P-24 (receipt of FSL) it was deposited in FSL, Jagdalpur on 03.06.2022 and the FSL examination had already been conducted on 23.06.2022. Thus, there is a material discrepancy in the prosecution case in this regard also. If, after mixing the contents of the 5 packets, the remaining contraband was kept in five sacks marked as Articles B-1 to B-5, it is unclear how the same was subsequently shown as deposited in 5 packets marked as Articles A-1 to A-5. Thus, the prosecution evidence is also contradictory as to whether the contraband was deposited in the Malkhana in 5 packets or 5

sacks. Counsel further states that the sample packets, Articles X-1 and X-2, were not shown to have been deposited in the Malkhana. Therefore, it is doubtful where the samples were kept between their preparation and their deposit at the FSL, Jagdalpur, as reflected in the FSL receipt (Ex. P-24) dated 03.06.2022. He submits that the aforesaid discrepancies create serious doubt regarding the identity and sanctity of the alleged contraband, particularly Article X-1, from the time of its seizure until its deposit at the FSL. Therefore, the prosecution cannot be said to have proved its case beyond reasonable doubt. He submits that the appellant has been languishing in jail since 23.05.2022 i.e. more than 4 years and 4 months. In view of the aforesaid submissions, learned counsel submits that the impugned judgment of conviction and order of sentence are unsustainable in law and deserve to be set aside, and the appellant deserves to be acquitted of the charges levelled against him.

8. Per contra, learned State counsel submits that the alleged contraband substance was seized from the vehicle driven by the appellant. He further submits that, after mixing the contents of all 5 packets, 2 samples were drawn and marked as Articles X-1 and X-2, out of which Article X-1 was sent to the FSL. The FSL report (Ex. P-74) confirmed that the substance was Ganja. He further submits that the date 25.03.2022 was inadvertently mentioned in the mixing, weighing and sampling panchnama (Ex. P-65) instead of 23.05.2022, therefore, such a minor discrepancy cannot be given undue advantage so as to discard the other material evidence adduced by the prosecution. He submits that the impugned judgment of conviction and order of sentence are based on proper appreciation of the evidence on record and

do not warrant any interference by this Court and prays that the appeal be dismissed.

9. Heard learned counsel for the parties and perused the record with utmost circumspection.

10. PW-13 Rajkumar Komra, Assistant Sub-Inspector and Investigating Officer, deposed that on 23.05.2022, while posted at Police Station Farasgaon, he received secret information at about 06:05 a.m. regarding illegal transportation of Ganja in silver-coloured pickup vehicle bearing registration No. CG-17-KJ-0941 from Odisha towards Farasgaon. He recorded the information in Rojnamcha Sanha No. 02 (Ex. P-32/P-32C), called two independent witnesses through Head Constable Salim Tigga (PW-10), and recorded their arrival in Rojnamcha Sanha No. 04 (Ex. P-35/P-35C). Notices under Section 160 Cr.P.C. were served upon them (Ex. P-36 and P-37), secret information panchnama (Ex. P-39) was prepared, and intimation was sent in a sealed envelope to the SDOP, Farasgaon through Head Constable Panchuram Markam (PW-3). As a search warrant could not be obtained due to urgency, a panchnama to that effect (Ex. P-44) was prepared and recorded in Rojnamcha Sanha No. 10 (Ex. P-45/P-45C). PW-13 further stated that he, along with the police staff and the two independent witnesses, proceeded in an official Bolero vehicle and conducted a blockade vide Ex. P-47. At about 09:45 a.m., the suspected pickup vehicle was intercepted (Ex. P-48). Two occupants fled into the forest, while the driver, namely the appellant Ramdev Sinha, was apprehended. After serving notice under Section 50 of the NDPS Act (Ex. P-49), the appellant consented to be searched by PW-13 (Ex. P-51). Subsequently, on search of the pickup vehicle (Ex. P-56), five large packets wrapped in brown cello-tape and concealed beneath a blue polythene sheet

were recovered from the rear cargo bed (Ex. P-57). The substance was identified as Ganja on physical examination (Ex. P-58). The appellant failed to produce any valid document in response to notice under Section 67 of the NDPS Act (Ex. P-59). The packets were marked A-1 to A-5 and, after verification of the electronic weighing scale and summoning of the weighman, were weighed separately, showing a total weight of 74.019 kg (Ex. P-64). The contents were thereafter mixed homogeneously, from which two samples of 100 grams each were drawn, sealed and marked X-1 and X-2. The remaining contraband was packed in five sacks marked B-1 to B-5, while the empty adhesive tape was packed as B-6. After sealing and preparation of the seizure memo (Ex. P-67), the appellant was apprised of the grounds of arrest (Ex. P-68) and arrested at 15:55 hrs (Ex. P-69). The spot map and Dehati Nalsi were prepared, and upon return to the police station, FIR No. 56/2022 was registered and the seized articles were deposited in the Malkhana vide Ex. P-16.

11. In cross-examination, PW-13 admitted that the two independent witnesses, Harish Chandra Biswas and Yogendra Biswas, are real brothers residing about 9 km away at Jugani Camp. He further admitted that in several documents, including Ex. P-60, P-63 to P-66, P-68 and P-70, Crime No. 0/2020 was mentioned instead of 2022, though he attributed the same to a typographical error. Further, in Ex. P-65, the crime number was overwritten without initials. Significantly, he admitted that the Malkhana deposit receipt (Ex. P-16) does not mention Articles B-1 to B-5, B-6 or sample packets X-1 and X-2. He also admitted that no separate sample was drawn from each packet before homogeneous mixing and that no Magistrate was present at the spot during mixing and sampling.

12. PW-3 Panchuram Markam (Head Constable No. 245) and PW-10 Salim Tigga (Head Constable No. 287), members of the raiding party, corroborated the account of interception of the pickup vehicle, fleeing of two occupants, apprehension of the appellant, and recovery of 5 packets of Ganja from the rear cargo bed. In cross-examination, PW-3 admitted that he did not know what documents were contained in the closed envelope delivered to the SDOP reader. PW-10 admitted that the electronic weighing machine was not verified with standard iron weights and that he could not state the individual weight of the packets.

13. PW-7 Krishna Kumar Sethia (Constable No. 796) stated that he brought weighman Anantram Poyam with an electronic weighing scale from village Pasangi. In cross-examination, he admitted that he did not know by what material the articles were sealed and that the entire proceedings were conducted by ASI Komra.

14. PW-5 Vijay Kumar Pareshwar (Head Constable No. 108), the Malkhana Moharrir, stated that on 23.05.2022, he received 05 packets of contraband Ganja, packed in 05 plastic sacks and marked as Articles A-1 to A-5, from ASI Rajkumar Komra and deposited them in the Malkhana vide receipt Ex. P-16, recording the same at serial No. 37, page 142 of the Malkhana Register (Ex. P-17/Ex. P-17C). However, in his cross-examination, he admitted that he did not mention in the Malkhana Register (Ex. P-17) what specific marked articles were received. He categorically admitted that sample packets X-1 and X-2 were never entered in the Malkhana Register Ex. P-17, nor does receipt Ex. P-16 contain any endorsement regarding deposit of samples X-1 and X-2.

15. PW-6 Harinandan Singh (Retired Inspector) proved the registration of regular FIR No. 56/2022 (Ex. P-19) on the basis of Dehati Nalsi Ex. P-18, and

forwarding a request letter Ex. P-20 to the SDM for inventory proceedings. In cross-examination, he admitted that on FIR Ex. P-19, the Dehati Nalsi number was overwritten without his initials.

16. PW-8 Jayshree Dhruw (Woman Head Constable No. 304) stated that on 03.06.2022, she was handed over sample packet X-1 in a closed envelope along with SP memo Ex. P-23 by the Thana Munshi to deposit at RFSL, Jagdalpur, which she deposited on the same day and obtained receipt Ex. P-24. In cross-examination, she admitted that she could not say what was inside the sealed packet, that no panchnama was prepared while taking out the packet from the Malkhana, and that the memo Ex. P-23 was not prepared in her presence.

17. PW-9 Premlal Nag (Head Constable No. 107), Reader to SDOP Farasgaon, stated that on 23.05.2022 at 07:30 a.m., he received the intimation letter (Ex. P-10) and secret information panchnama from HC Panchuram Markam, and on 24.05.2022 at 14:00 hrs, he received the detailed report under Section 57 NDPS Act (Ex. P-25) from Constable Krishna Sethia. In cross-examination, he admitted that the office hours of SDOP are 10:30 a.m. to 05:30 p.m., that 07:30 a.m. was not the office opening time, and that the documents received were not annexed to the register.

18. PW-11 Samari Sahu (Woman Head Constable No. 218) stated that on 27.06.2022, she received back the remnant sample packet X-1 along with receipt Ex. P-27 from RFSL Jagdalpur and handed it over to the Malkhana Munshi. She produced the sealed packet marked as Article A-1 before the Court. In cross-examination, she admitted that no panchnama was prepared by the Malkhana Munshi when handing over the packet to her for production in Court.

19. PW-12 Uisiyani K. Mankar, the then Tehsildar-cum-Executive Magistrate, Farasgaon, stated that on 30.09.2022, five plastic sacks of contraband were produced before him by Inspector Bhapendra Sahu (PW-14) for inventory proceedings under Section 52A NDPS Act. He admitted that the sacks were opened, mixed, and re-weighed, showing a total weight of 69.463 kg, and since the Court's seal was not available, they were resealed with the seal of Police Station Farasgaon vide order sheet Ex. P-28 and report Ex. P-29. In cross-examination, he admitted that the order of appointment as Executive Magistrate was not annexed and that no fresh sample was drawn during the inventory proceedings on 30.09.2022.

20. PW-14 Bhapendra Sahu, Inspector, conducted subsequent investigation and produced the seized contraband before the Executive Magistrate for inventory on 30.09.2022.

21. Crucially, PW-1 Sukhlal Rai (registered vehicle owner) and PW-4 Shivram Sinha (father of the appellant) completely turned hostile and did not support the prosecution case, denying having executed the vehicle transfer documents. Furthermore, the two independent panch witnesses to the search and seizure, namely, Harish Chandra Biswas and Yogendra Biswas, were not examined by the prosecution before the trial Court.

22. From perusal of above evidences, the principal question that arises for consideration in the present appeal is whether the prosecution has established beyond reasonable doubt that the sample of Ganja examined by the Regional Forensic Science Laboratory (RFSL) was drawn from the very contraband allegedly seized from the possession of the appellant and that the said sample remained in safe custody, duly sealed and untampered with, throughout the period commencing from its seizure until its receipt at the

laboratory. Though, upon a careful examination of the oral and documentary evidence available on record, it appears that the prosecution has failed to satisfactorily establish the essential link in the chain of custody.

23. It is well settled that in a prosecution under the NDPS Act, the prosecution must establish not only the recovery of the alleged contraband but also the identity and integrity of the sample subjected to chemical examination. The mere production of an FSL report identifying the sample as Ganja would not, by itself, be sufficient to sustain a conviction if the prosecution fails to establish a reliable and unbroken link between the substance allegedly seized from the accused and the sample examined by the laboratory. The requirement assumes particular significance in view of the stringent penal consequences prescribed under the NDPS Act.

24. In **Abdul Rajik v. State of Madhya Pradesh** (Criminal Appeal No. 1561/2014) and **Govind v. State of Madhya Pradesh** (Criminal Appeal No. 1562/2014), **2026 INSC 1001**, judgment dated 16th September, 2026, the Hon'ble Supreme Court reiterated that the prosecution must establish, through credible oral and documentary evidence, the complete chain of custody of the samples to ensure their integrity and sanctity. It was also further observed that an unexplained gap in the custody of samples, coupled with the failure to establish safe storage and movement, seriously undermines the prosecution case. The Court held that where the link evidence is completely breached, the FSL report cannot safely be relied upon to establish the identity of the alleged contraband. The principles laid down therein squarely apply to the controversy involved in the present appeal.

25. In the present case, the first glaring discrepancy relates to the description, marking, and packaging of the alleged contraband at the time of its seizure

and its subsequent deposit in the Malkhana. According to Investigating Officer, Rajkumar Komra (PW-13), the contraband recovered from the pickup was in 05 packets, marked as Articles A-1 to A-5, weighing 74.019 kg vide weighing panchnama Ex. P-64. PW-13 categorically testified that after homogeneous mixing (*samras*) of the said 05 packets, two samples of 100 grams each were drawn and marked as Articles X-1 and X-2, while the remaining bulk was packed into 05 white plastic sacks and marked as Articles B-1 to B-5. If that were so, the bulk contraband brought to the Police Station ought to have been in 05 plastic sacks marked as Articles B-1 to B-5. However, Malkhana Moharrir Vijay Kumar Pareshwar (PW-5) deposed in his examination-in-chief that what was deposited with him on 23.05.2022 were 05 plastic sacks marked as Articles A-1 to A-5 vide receipt Ex. P-16. On the other hand, the certified copy of the Malkhana Register (Ex. P-17/Ex. P-17C) records that the contraband was deposited in "05 packets" and not in sacks which shows glaring contradiction. Thus, whether the seized Ganja was deposited in the Malkhana in 05 packets or 05 plastic sacks, and whether they were marked as A-1 to A-5 or B-1 to B-5, is thoroughly contradicted by the prosecution's own witnesses and records.

26. Even more fatal to the prosecution case is the complete absence of any record regarding the safe custody and deposit of the sample packets. As per PW-13, two representative sample packets of 100 grams each, marked as Articles X-1 and X-2, were prepared at the spot on 23.05.2022. However, Malkhana Moharrir Vijay Kumar Pareshwar (PW-5) admitted in unambiguous terms during cross-examination that neither the deposit receipt (Ex. P-16) nor the Malkhana Register (Ex. P-17) contains any entry or endorsement regarding the deposit of sample packets X-1 and X-2 in the Malkhana. PW-13

also admitted in paragraph 54 of his cross-examination that receipt Ex. P-16 makes no mention of Articles B-1 to B-5, B-6, or sample packets X-1 and X-2. If sample packets X-1 and X-2 were never deposited in the Malkhana on 23.05.2022, where did they remain preserved between 23.05.2022 and 03.06.2022 (when sample X-1 was allegedly dispatched to RFSL Jagdalpur through PW-8)? The prosecution has offered no explanation whatsoever as to in whose custody, in what manner, and in what condition sample X-1 was kept during this intervening period of eleven days.

27. The documentary evidence is further riddled with unexplained chronological discrepancies and material infirmities. In the mixing and sampling panchnama (Ex. P-65), the date of the proceeding is shown as 25.03.2022, whereas the alleged incident took place two months later on 23.05.2022. Several procedural panchnamas (Ex. P-60, P-63, P-64, P-65, P-66, P-68, P-70) bear Crime No. "0/2020", and in Ex. P-65, the crime number was overwritten with a pen without any initials. While the Investigating Officer sought to explain these as typing errors, such carelessness across all important documents cannot be overlooked when evaluated alongside the break in the chain of custody. Furthermore, while the sample was allegedly dispatched to RFSL Jagdalpur on 03.06.2022, the Malkhana Register extract (Ex. P-17) reflects highly conflicting entries regarding the movement of the sample, and the chemical examination report (Ex. P-74) records examination dates that do not match with the recorded movement of the property. In the absence of proper Malkhana entries recording the withdrawal of sample X-1, the prosecution has failed to establish that the packet delivered to RFSL Jagdalpur was indeed the very sample drawn at the spot from the contraband seized from the appellant.

28. The proceedings relating to inventory under Section 52A of the NDPS Act further deepen the doubt. The seized contraband was produced before the Executive Magistrate (PW-12) after an inordinate delay on 30.09.2022 i.e. more than 4 months after the seizure. PW-12 admitted that when the sacks were opened and re-weighed before him, the total weight was found to be 69.463 kg, which is significantly less than the seized quantity of 74.019 kg (or the remaining bulk of 73.200 kg). He also admitted that no fresh samples were drawn during the inventory proceedings, and since the seal of the Executive Magistrate was not available, the sacks were resealed using the seal of Police Station Farasgaon itself. This completely defeats the statutory purpose of independent verification and certification by a Magistrate under Section 52A of the NDPS Act.

29. In addition to the aforesaid severe breaches in the link evidence, the independent corroboration to the search and seizure is entirely absent. The two independent panch witnesses, Harish Chandra Biswas and Yogendra Biswas, who were undisputedly real brothers, were not examined by the prosecution at the trial. The registered owner of the vehicle (PW-1 Sukhlal Rai) and the appellant's father (PW-4 Shivram Sinha) turned hostile and denied that the vehicle had been sold or transferred to the appellant, stating that their signatures were obtained on blank papers at the police station. Thus, the conviction rests solely on the testimony of the police witnesses, whose depositions and contemporaneous records are fraught with irreconcilable contradictions regarding the packaging, marking, and custody of the seized substance and its samples.

30. Hence, in view of above discussion and applying the principles enunciated by the Hon'ble Supreme Court in **Abdul Rajik (supra)**, this Court finds that the

prosecution has failed to prove the continuity of safe custody and the integrity of the sample examined by the laboratory. The fact that the FSL report (Ex. P-74) identifies the substance examined as Ganja does not cure the primary defect that the prosecution failed to prove that the examined sample was the very sample drawn from the contraband recovered from the appellant. Once the evidentiary link between the recovery and the chemical examination is snapped, the prosecution case suffers from an incurable infirmity, and conviction under Section 20(b)(ii)(C) of the NDPS Act cannot be sustained. The learned Special Judge failed to appreciate the cumulative effect of these material discrepancies and the complete absence of reliable link evidence.

31. For the reasons recorded above, this Court is of the considered opinion that the prosecution has failed to establish its case against the appellant beyond all reasonable doubt. The appellant is, therefore, entitled to the benefit of doubt.

32. In the result, the appeal is **allowed**. The impugned judgment of conviction and order of sentence dated 26.06.2024 passed by the Special Judge (NDPS Act, 1985), Kondagaon, District Kondagaon (C.G.) in Special Criminal Case (NDPS Act, 1985) No. 25/2022, convicting and sentencing the appellant under Section 20(b)(ii)(C) of the NDPS Act, are hereby set aside. The appellant is acquitted of the said charge by extending him the benefit of reasonable doubt.

33. The appellant is reported to be in jail. He shall be released forthwith, if not required in any other case. The fine amount, if deposited, shall be refunded to him in accordance with law.

34. The appellant shall execute a personal bond in the sum of Rs. 25,000/- which shall be remain in force for the period of 6 months in view of the provisions of Section 481 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

35. The record of the trial Court along with a copy of this judgment be sent back immediately to the trial Court concerned for compliance and necessary action. A copy of this judgment be also forwarded to the concerned Jail Superintendent/Authority for immediate information and necessary action.

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

Sd/-

(Naresh Kumar Chandravanshi)
Judge

Ajay