



2026:CGHC:16846

1



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HIGH COURT OF CHHATTISGARH AT BILASPUR

Criminal Appeal No.858 of 2025

Mahendra Kumar Pal, S/o Rajbali Pal, Aged About 30 Years, R/o
Village- Kukarhata, Post- Khajuri, Police Station- Koraon, District-
Prayagraj (U.P.) **... Appellant**

versus

State Of Chhattisgarh Through Police Station GRP Raipur, Distt.-
Raipur (C.G.) **... Respondent**

For Appellant :Shri Anuroop Panda, Advocate from Legal
Aid.

For Respondent/State :Ms. Katyayani Vishnupriya, PL.

Hon'ble Shri Justice Sanjay Kumar Jaiswal
Judgment on Board

13.04.2026

1. The present Criminal Appeal under Section 415(2) of Bhartiya
Nagrik Suraksha Sanhita, 2023 has been preferred by Appellant
against the judgment of conviction and order of sentence dated



09.01.2025 passed by the learned Special Judge (NDPS Act), Raipur, District Raipur (CG) in Special Case No.147/2023, whereby the Appellant has been convicted and sentenced as under:

Conviction	:	Sentence
U/s 20(b)(ii)(B) of the NDPS Act		RI for 10 years with fine of Rs.1,00,000/- (One lac), in default of payment of fine, additional RI for 2 years.

2. The prosecution case, in brief, is that on 10.07.2023, Sub-Inspector Ajeeb Choudhary of the Railway Protection Force received secret information that a physically disabled person, aged about 30–32 years, was sitting near the toilet at the Durg end of Platform Nos. 5–6 of the railway station, carrying a pitthu bag containing ganja. After recording the information and informing the superior officer, he, along with police staff, reached the spot. There, a person matching the description was found with a maroon pitthu bag bearing the mark “Royal Bags”. On inquiry, he is found to be the present Appellant, a resident of District Prayagraj (U.P.). In the presence of independent witnesses, he was apprised of his legal rights and consented to the search. Upon search of the bag, 09 packets of ganja weighing 10 kg 105 grams were recovered. The accused/Appellant failed to produce any valid licence or document and the contraband was seized. He was arrested and the case was forwarded to Police Station G.R.P., Raipur for further



investigation. Thereafter, a crime was registered under the provisions of the NDPS Act, 1985 against the present Appellant. Samples were drawn, sealed and sent to the FSL for examination and after completing investigation and complying with other procedural requirements, the charge-sheet was filed.

3. The prosecution has in all examined 13 witnesses and exhibited 41 documents to prove its case. The accused was examined under Section 313 CrPC wherein he pleaded innocence and false implication. After conclusion of trial, considering the evidence of prosecution witnesses and material available on record, learned Trial Court by impugned judgment, convicted and sentenced the Appellant, as mentioned above.

4. At this stage, learned Counsel for the Appellant submits that he does not want to press this Appeal on merits and confines his arguments to the sentence part. He submits that out of the maximum jail sentence of 10 years imposed on the Appellant under Section 20(b)(ii)(B) of the NDPS Act for carrying contraband *ganja*, he had already completed the custody period of 2 years, 6 months and 12 days. He further submits that the occurrence is related to the year 2023, since then the Appellant has been facing */is*, there is no minimum sentence provided for the offence punishable under Section 20(b)(ii)(B) of the NDPS Act and looking to the quantity of *ganja* seized and the sentence imposed on him, he prays that the



sentence of the Appellant be reduced to the period already undergone by him in the interest of justice.

5. Per contra, learned State Counsel supports the impugned judgment and opposes the submissions advanced on behalf of the Appellant. She submits that the Appellant has two criminal antecedents under the Excise Act.

6. I have heard learned counsel for the parties and have also perused the material available on record including the impugned judgment.

7. Having gone through the material available on record and the statements of witnesses, particularly the Investigating Officer, Sub-Inspector AZ Choudhary (PW-8) and Head Constable Veer Kishore Toppo (PW-13), which substantially proved the recovery of contraband from the possession of the Appellant as also the documentary evidence in the nature of the exhibit receipt (Ex.P-38) and duty certificate (Ex.P-39) indicating due transmission and deposit of the seized articles, this Court does not find any illegality or infirmity in the findings recorded by the trial Court as regards the conviction of the Appellant for the offence U/s 20(b)(ii)(B) of the NDPS Act, which is hereby affirmed.



8. Further in case of **Mohammad Giasuddin v. State of Andhra Pradesh** reported in (1977) 3 SCC 287, Hon'ble Supreme Court while emphasizing the reformatory approach 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 jurists and 'sociologists, from their own angle have struck a like note. Sir Samuel Romilly, critical of the brutal penalties in the then Britain, said in 1817 :

"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-culturation. 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 Geoffrey Streetfield : "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."

9. In view of the above discussion and applying the analogy of reformatory approach laid down in **Mohammad Giasuddin** (supra) and keeping in view the fact that the maximum sentence imposed



upon the Appellant is 10 years out of which, he has already served the jail sentence of about 2 years, 6 months and 12 days and there is no minimum sentence prescribed for the offence punishable under Section 20(b)(ii)(B) of the NDPS Act as also the fact that the Appellant has suffered the mental agony and trauma of protracted trial and as per the Arrest Memo (Ex.P-16), he is a labourer having studied upto 9th standard, further looking to the fact that although the Appellant has certain antecedents under the Excise Act, there is no previous criminal record against him in respect of any offence under the NDPS Act, it would be just and proper if the sentence of 10 years RI awarded by the trial Court for offence under Section 20(b)(ii)(B) of the NDPS Act is reduced to the period already undergone by the Appellant. Accordingly, while maintaining the Appellant's conviction, the sentence awarded to him is hereby reduced to the period already undergone by him. However, it is made clear that the sentence of fine of Rs.1,00,000/- (Rupees One Lac) as imposed by the trial Court and the default stipulation thereof, shall remain in tact.

10. Consequently, the Appeal is **partly allowed** to the extent indicated above.

11. The Appellant is in jail. He shall be released from jail forthwith, if not required in any other offence.



2026:CGHC:16846

7

12. Let a certified copy of this judgment along with the original record be transmitted to the concerned trial Court forthwith for information and necessary action. A copy of this judgment be also sent to the concerned Superintendent of Jail where the Appellant is undergoing jail sentence.

Sd/-

(Sanjay Kumar Jaiswal)
Judge

Priya