

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (S.J.) No. 1244 of 2008**

.....

[Against the Judgment of conviction dated 02.09.2008 and Order of sentence dated 03.09.2008, passed by learned Sessions Judge, West Singhbhum, Chaibasa in G.R. Case No.02 of 2007]

.....

Gomeya Barjo, son of Late Gono Barjo, Resident of Road No. Jhilkula, P.S-Goilker, District-West Singhbhum.

... **Appellant**

Versus

The State of Jharkhand

... **Respondent**

WITH

Criminal Appeal (S.J.) No. 1222 of 2008

.....

Basant Pradhan S/o Sri Nav Pradhan, resident of village – Danti Begma, P.S.-Chakradharpur, Dist- Singhbhum.

... **Appellant**

Versus

The State of Jharkhand

... **Respondent**

.....

For the Appellants : Mr. Jitendra Nath Upadhyay, Adv.
[Cr. Appeal (S.J.) No.1244 of 2008]

Mr. Rajesh Kr. Mishra, Adv.
[Cr. Appeal (S.J.) No.1222 of 2008]

For the State : Mrs. Nehala Sharmin, Spl. P.P.
[Cr. Appeal (S.J.) No.1244 of 2008]

Mr. Tarun Kumar, A.P.P.
[Cr. Appeal (S.J.) No.1222 of 2008]

.....

PRESENT

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

.....

JUDGMENT

C.A.V. on 12.05.2026

Pronounced on 10.06.2026

1. I have already heard the arguments advanced by Mr. Jitendra Nath Upadhyay and Mr. Rajesh Kr. Mishra,

learned counsels for the appellants as well as Mrs. Nehala Sharmin, learned Spl. P.P. and Mr. Tarun Kumar, learned A.P.P. appearing for the State.

2. Above criminal appeals are arising out of common judgment passed by learned Sessions Judge, West Singhbhum at Chaibasa in G.R. Case No.02 of 2007, whereby and whereunder the appellants have been held guilty for the offence under Section 20(b) of the N.D.P.S. Act and considering the intermediary quantity of ganja recovered from the possession of appellants, they were sentenced to undergo rigorous imprisonment for 7 years along with fine of Rs.25,000/- each.

3. Factual matrix giving rise to this appeal is that on 19.06.2007 at about 13:00 hours, on the basis of confidential information received by Goilkera Police one Rajdoot Motorcycle bearing Registration No.BR-18-7960 was intercepted at about 15:30 hours near Dindayal Sishu Mandir School, Goilkera by the police personnel headed by S.I. Atin Kumar. Two persons riding on the said motorcycle started fleeing away, who were chased and apprehended and disclosed their names as Basant Pradhan and Gomeya Barjo.

It is alleged that on the carrier of motorcycle, there was a plastic bag containing something and Basant Pradhan disclosed that it was ganja. In presence of two independent witnesses namely Turam Korah and Tungir Kerai, the plastic bag was searched and about 3 kg of ganja kept in four blue coloured polythene packets were recovered. The apprehended accused persons did not produce any document rather it was informed by Basant Pradhan that he had purchased the said ganja from his companion Gomeya Barjo for Rs.3,600/- for selling the same in Chakradharpur Bazar and adjacent areas. The ganja and the motorcycle were seized and seizure list was prepared in presence of witnesses and both the accused persons were arrested.

On the basis of above fardbeyan of A.S.I. Yogendra Shukla, who was also Member of raiding party, Goilkera P.S. Case No. 20 of 2007 was registered for the offences under Sections 20 and 22 of the N.D.P.S. Act.

4. After completion of investigation, charge-sheet was submitted against the accused persons for the aforesaid offences.

5. In the course of trial, altogether 9 witnesses were

examined by the prosecution and documentary evidences were also adduced.

6. The case of defence is denial from occurrence and false implication and plea of innocence.

7. However, no oral or documentary evidence has been adduced by the accused persons.

8. The learned Trial Court after scrutinizing the evidence available on record arrived at findings that the prosecution has proved the charges leveled against the accused persons beyond all reasonable doubt. Accordingly, convicted and sentenced them as stated above.

9. Learned counsel for the appellants has submitted that the learned Trial Court has committed serious error of law while appreciating the evidence available on record. It is submitted that the signature of appellants on the seizure list was obtained on blank paper and its copy was also not provided to them. The search and seizure was not made in presence of Gazetted Officer in violation of mandatory provision of Section 50 of the N.D.P.S. Act. It is further submitted that seizure list witnesses have not supported any recovery in their presence except admitting their signature.

Therefore, impugned judgment and order of conviction and sentence of appellants is liable to be set aside.

In the alternative, it is argued that it was first offence of the appellants and they have no criminal background. The appellants have also deposited the fine amount of Rs.25,000/- each and have also undergone imprisonment about one year and seven months out of 7 years of R.I. awarded to them. Near about two decades is passing from the date of occurrence, as such, appellants have undergone the agony of trial for pretty long period and have also undergone some imprisonment. Therefore, sufficiently punished for their guilt. As such, considering the age, antecedent and character of the appellants, the sentence awarded to them may be reduced to the imprisonment already undergone.

10. On the other hand, learned Spl. P.P. and A.P.P. appearing for the State have defended the impugned judgment on merits and submitted that the appellants were caught red handed with 3 kg of illicit ganja. The provision of Section 50 of the N.D.P.S. Act does not apply in the facts and circumstances of this case because the recovery was from the carrier of the motorcycle and not from personal possession of

the accused persons. The copy of seizure list was given to the appellants and the seizure list witnesses have also proved their signature on the seizure list showing their presence at the spot during relevant time. Therefore, the learned Trial Court has committed no error of law while arriving at conclusion of guilt of the appellants. It is further submitted that in such type of cases the culprits must be dealt with awarding stern punishment as a deterrence. Therefore, there is no merit in this appeal which is fit to be dismissed.

11. I have gone through the record of the case along with the impugned judgment and order in the light of contentions raised on behalf of both side.

12. The only point for consideration is that as to **"whether the impugned judgment and order of conviction and sentence of the appellants suffers from any serious error of law calling for any interference in this appeal ?"**

13. It appears that P.W.4 Hawaldar Md. Mohiuddin Khan, P.W.5 Tarkeshwar Sah Gond (Constable), P.W.6 Yaduvendra Pratap Sinha (Constable), P.W.7 Ram Kanhai Rajak (Constable) and P.W.8 Shankar Mahato (Driver of the police jeep) were also members of police raiding team who have

consistently corroborated the prosecution case regarding apprehension of present appellants on the spot along with a motorcycle having 3 kg of ganja on the carrier of the motorcycle.

Further, P.W.1 Tungir Kerai and P.W.2 Turam Korah, who are seizure list witnesses, have also proved their signature on seizure list as Ext.1 and Ext.1/1 respectively. Although, they have failed to support the recovery of ganja. The seizure list (Ext.1 and Ext.2) bears signature of accused persons. The Forensic Science Laboratory (Ext.6) also goes to show that the seized material was found ganja, which is a flowery and fruit tops of plant Cannabis sativa and contains Tetrahydrocannabinol (T.H.C.) as its main intoxicating ingredient. No valid explanation has been offered by appellants as regards recovery of ganja from their motorcycle which was in their conscious possession.

It appears that the learned Trial Court has examined the evidence of witnesses in threadbare manner along with documentary evidence available on record. I do not find any error of law vitiating the findings recorded by the Trial Court.

14. In view of above discussion and reasons, I do not find

any substance in the point of arguments raised on behalf of the appellants and no merits in this appeal. Therefore, **conviction of the appellants for the offences under Section 20(b) of the N.D.P.S. Act against them is hereby upheld and confirmed.**

15. So far as sentence of the appellants is concerned, it appears that undoubtedly, it was first offence of the appellants and on the date of occurrence appellant Gomeya Barjo in Cr. Appeal (S.J.) No.1244 of 2008 was aged about 31 years and appellant Basant Pradhan in Cr. Appeal (S.J.) No.1222 of 2008 was aged about 42 years. More than about two decades has been passed from the date of occurrence and the appellants have also remained in custody about one year and seven months, out of R.I. of seven years awarded to them and thereafter, they have remained in mainstream of life and not involved in any other criminal activities. The appellants have also deposited the fine of Rs.25,000/- each. Therefore, keeping in mind the reformatory theory of punishment, the sentence awarded to the appellants is hereby reduced to the imprisonment already undergone by them during trial and post-conviction.

16. In view of above discussion and reasons, these appeals are **dismissed on merits with modification in sentence** to the extent mentioned above.

17. The appellants are on bail, they are discharged from liability of bail bonds and sureties are also discharged.

18. Pending I.A., if any, stands disposed of.

19. Let a copy of this judgment along with Trial Court record be sent back to the concerned Trial Court for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi

Dated: 10/06/2026

Sachin / **NAFR**

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