



2026:CGHC:15514

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****Criminal Appeal No.326 of 2026**

Mansingh Sarthi S/o Bhagbali Sarthi Aged About 52 Years R/o -
Budhwari Bazar, Behind Sabzi Mandi, Outpost- CSEB, Police
Station- Kotwali, Korba, District : Korba, CG ... **Appellant**

versus

State Of Chhattisgarh Through Police Outpost - CSEB Police
Station- Kotwali, Korba, District : Korba, CG ... **Respondent**

For Appellant :Shri Suryapratap Yuddhveer Singh,
Advocate.

For Respondent/State :Ms. Laxmin Kashyap, PL.

Hon'ble Shri Justice Sanjay Kumar Jaiswal**Judgment on Board****06.04.2026**

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

09.01.2026 passed by the learned Special Judge (NDPS Act), Korba, District Korba (CG) in NDPS Act Case No.20/2024, whereby the Appellant has been convicted and sentenced as under:

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

2. The prosecution case, in brief, is that on 27.02.2024, on receipt of secret information, the police party of CSEB Outpost, Police Station Civil Lines, Rampur, Korba, recorded the information in the daily diary and after summoning independent witnesses and completing necessary formalities, proceeded to Budhwari Bazaar, Korba. At the spot, the accused/Appellant was apprehended and upon search, 1.5 kilograms of ganja along with Rs.650/- was recovered from his possession. The contraband was duly weighed, seized and sealed in accordance with law in the presence of witnesses. The accused/Appellant failed to produce any valid authorization for possession of the said contraband. Accordingly, an offence under Section 20(b) of the NDPS Act was registered against the accused/Appellant and he was arrested. The samples of seized contraband were collected and sent for FSL examination. After completing investigation and complying with other procedural requirements, the charge-sheet was filed.

3. The prosecution has in all examined 9 witnesses and exhibited 63 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 argument to the sentence part. He submits that out of the maximum jail sentence of 2 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 3 months 12 days and also deposited the fine amount. He further submits that the occurrence is related to the year 2024, since then the Appellant has been facing //s and there are no criminal antecedents reported against him. He further submits that 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 short term 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 arguments advanced on behalf of the Appellant.

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 especially the Investigating Officer i.e. Vinod Khande (PW-9) and TI Virendra Mishra (PW-6), which substantially proved the recovery of contraband from the possession of the Appellant as also the FSL Report (EX.P-62) which shows that the sample material contained in Articles A-1 & A-2 were found to be positive 'Ganja', 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. In the case 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 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 Jeffrey 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."

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 2 years out of which, he has already served the jail sentence of about 3 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 further looking to the short term sentence and the fact that he has no previous criminal record against him, it would be just and proper if the sentence of 2 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.10,000/- 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.

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