



2026:CGHC:12419

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 476 of 2026**

Yogesh Thakur S/o Shivram Thakur Aged About 28 Years R/o
Village Talesar, P.S. Chhura, District Gariyaband (C.G.)

... Appellant**versus**

State of Chhattisgarh Through The Police Station Chhura,
District Gariyaband (C.G.)

... Respondent

For Appellant : Mr. Suresh Kumar Verma, Advocate
For Respondent/State : Mr. Manish Kashyap, P.L.

Hon'ble Shri Justice Sanjay Kumar Jaiswal**Order on Board****16/03/2026**

1. The present appeal arises out of the impugned judgment of conviction and order of sentence dated 03.09.2025 passed by the learned Special Judge, (N.D.P.S. Act), Raipur, District - Raipur (C.G.), in Special Case No.56/2020 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, 1985	R.I. for 03 years with fine of Rs. 30,000/-, and in default of payment of fine amount additional R.I. for 03 months.



2. As per prosecution case, on 05.05.2020, Inspector Rajesh Jagat (PW-9) of PS Chhura received information from an informant that the appellant has hidden illegal contraband Ganja near the house of Dasu Kumar in village Kediaama for sale and is about to come to collect it. On the basis of said information, police have reached the spot and seized 02 kg of Ganja from the possession of the present appellant and 1.600 kg of Ganja from the possession of another co-accused Tukeshwar Chakradhari. After due procedure, the accused were arrested, and offence was registered against them. After due investigation, charge sheet was filed against the accused persons. On taking their memorandum statement, they told that they had bought the said Ganja from Constable Liladhar Devvanshi and Soldier Hemant Dhruv posted at Police Station Chura.
3. So as to hold the accused guilty, the prosecution has examined as many as 17 witnesses and exhibited 56 documents. The statement of the accused was also recorded under Section 313 of the Cr.P.C. in which they denied the circumstances appearing against them and pleaded innocence and false implication in the case.
4. After examination of evidence, the learned trial Court has proved its case against accused persons Yogesh Thakur and Tukeshwar Chakradhari under Section 20(b)(ii)(B) of NDPS Act beyond reasonable doubt and the prosecution could not prove its case against the accused Liladhar Devvanshi, and Hemant Dhruv under Section 20(b)(ii)(B) of the NDPS Act, 1985. Therefore, the above accused Liladhar Devvanshi and Hemant Dhruv are acquitted of the charge under the above section.
5. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 03.09.2025, learned



Special Judge has convicted and sentenced the appellant as mentioned in para-1 of this judgment. Hence, the present appeal.

6. Learned counsel for the appellant submits that he is not pressing the appeal so far as the conviction is concerned and is confining his arguments to the sentence part thereof only. According to him, the incident is said to have taken place on 05.05.2020, and only 02 kg of ganja has been seized from the possession of the accused/appellant. The appellant has undergone about 530 days, i.e. about half of the sentence and he is still serving the jail sentence. The appellant is aged about 28 years at present and there is no previous antecedent against the appellant and the fine amount has been deposited before the trial Court. 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.
7. Per contra, learned counsel appearing for the State, supporting the impugned judgment, opposed the arguments advanced on behalf of the appellant.
8. Heard learned counsel for the parties and perused the material on record including the impugned judgment.
9. Having gone through the material on record and the evidence of the witnesses Bharatdwaj Deshlahre (PW-6), Dekeshwar Kumar Soni (PW-7), Rajesh Jagat (PW-9), Harihar Sahu (PW-12), Duleshwar Baghel (PW-13), Indal Kumar Sahu (PW-14) 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-55. This Court does not see any illegality in the findings recorded by the trial Court as regards conviction of the appellant under Section 20(b) (ii)(B) of Narcotic Drugs and Psychotropic Substances Act.

10. 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 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



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.”

11. 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 served the jail sentence total of 530 days, there is no previous antecedent against the appellant and at present appellant is aged about 28 years, as per arrest memo, he studied up to 12th, 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. The fine amount has been deposited by the appellant before the trial Court on 26.02.2026 and receipt of the same has placed on record.
12. In the result the appeal is **allowed in part**. While maintaining the conviction of the appellant under Section 20(b)(ii)(B) of NDPS Act, his jail sentence is reduced to the period already undergone by him i.e. total of 530 days instead of R.I. for 03 years. However, the fine imposed upon the appellant by the Trial Court shall remain intact.
13. The appellant is reported to be in jail. He be released forthwith if not required in any other case.
14. Let a certified copy of this order 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.

Sd/-
(Sanjay Kumar Jaiswal)
JUDGE