



2026:CGHC:9745

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 538 of 2025

Sonu Kumar @ Dipak S/o Tejpal Aged About 23 Years R/o Village-Sujati, Police Station- Doghat, District- Bagpat (U.P.)

--- Appellant

versus

State of Chhattisgarh Through - The Station House Officer, Police Station- G.R.P. Raipur, District- Raipur (C.G.)

--- Respondent

And

CRA No. 297 of 2025

Amit Bhadoria S/o Umesh Bhadoria Aged About 25 Years R/o 1743, Pana Marmurpur, P.S. Narela, District- North Delhi, New Delhi. At Present R/o Mansa Road, Hindi Apartment, House No. 303, Narela, P.S. Narela District- North Delhi, New Delhi

---Appellant

Versus

State of Chhattisgarh Through - The Police Station Grp Raipur District Raipur C.G.

... Respondent

(Cause-titles are taken from CIS)

For Appellant in CRA No.538/2025 :	Mr. Anurag Khatri, Advocate
For Appellant in CRA No.297/2025 :	Mr. Pravin Kumar Tulsyan, Advocate
For Respondent/State :	Mr. Vinod Tekam, Govt. Advocate

Hon'ble Shri Justice Sanjay Kumar Jaiswal
Judgment on Board

24.02.2026

1. The cases arising out of same impugned judgment and ST number,

therefore, they are being decided by this common judgment.

2. These appeals have been preferred by the appellants under Section 415 (2) of BNSS, 2023 challenging the impugned judgment of conviction and order of sentence dated 02.12.2024 passed by learned Special Judge (NDPS Act), Raipur District Raipur (C.G.) in Special Case No.48/2024, whereby the appellants have been convicted for offence under Section 20(b)(ii)(B) of the NDPS Act, 1985 and sentenced to undergo rigorous imprisonment for 10 years with fine of Rs.1,00,000/- respectively. In default of payment of fine, to undergo additional R.I. for 2 years.
3. The case of the prosecution is that, on the basis of information received from an informant on 15.01.2024, police officials of GRP Raipur, after completing necessary formalities conducted raid and seized 11.400 Kg. of contraband Ganja from appellant Amit Bhadoria which was kept in a trolley bag and seized 9.400 Kg. of contraband Ganja from appellant Sonu Kumar @ Dipak which was also kept in a trolley bag. Thereafter, a case was registered against the appellants, and the seized substance was sent to the Forensic Science Laboratory for testing. As per the test report (Ex.P-44), the seized substance was confirmed to be Ganja. After completion of investigation, charge sheet was filed against the appellants.
4. During the course of trial, in order to bring home the offence, prosecution examined as many as 10 witnesses and exhibited 44 documents in support of its case. The statement of the appellants / accused were also recorded under Section 313 of the CrPC in which they denied the circumstances appearing against them in the evidence brought on record by the prosecution, pleaded innocence and false implication.
5. Learned trial Court, after appreciation of oral and documentary evidence on record, convicted and sentenced the appellants as mentioned in the second paragraph of this judgment, against which the present appeals have been preferred by the appellants

questioning the legality, validity and correctness of the impugned judgment.

6. Learned counsels for the appellants submit that they does not want to press these appeals on merits and confine their arguments only on sentence part. They submit that appellant Amit has studied upto 9th standard, now he is aged about 27 years, having family responsibilities. He already remained in jail for about 1 year, 9 months and 6 days. Appellant Sonu Kumar @ Dipak has studied upto 8th standard, now he is aged about 25 years, having family responsibilities. He already remained in jail for about 2 years, 1 month and 8 days. The incident took place in the year 2024 and since then the appellants are facing *lis*. Hence, by considering all these aspects, the sentence of the appellants may be reduced to the period already undergone by them in the interest of justice.
7. Per contra, learned counsel appearing for the State, supported the impugned judgment and opposed the arguments advanced on behalf of both the Appellants.
8. Heard learned counsel for the parties and perused the record including the impugned judgment.
9. Having gone through the material available on record and the evidence of constable Devesh Singh (PW-1), ASI D.K. Verma (PW-2), seizure memo (Ex.P-30) and the report of State Forensic Science Laboratory (Ex.P-44), establish the involvement of the Appellants in the crime in question. This Court does not find any illegality or infirmity in the finding recorded by the Trial Court as regards the conviction of the appellants for offence punishable under Section 20(b)(ii)(B) of the NDPS Act which is based on evidence available on record and it is hereby affirmed.
10. As regards the 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-culturisation. 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."

11. In the light of the decision of the Hon'ble Supreme Court in the case of **Mohammad Giasuddin** (supra) and keeping in view the fact that the appellants are facing the *lis* since 2024, as per arrest memo (Ex.P-32), appellant Amit has studied upto 9th standard and as per arrest memo (Ex.P-33), appellant Sonu has studied upto 8th standard, having family responsibilities. Appellant Amit has already

remained in jail for about 1 year, 9 months and 6 days and Appellant Sonu has already remained in jail for about 2 years, 1 month and 8 days. Considering all these facts, this Court opines that justice would be served if the appellants' sentences are reduced to the period from 10 years to 2 years & 2 months.

12. Accordingly, the conviction of the appellants for offence under Section 20(b)(ii)(B) of the NDPS Act is maintained and the sentence is reduced from 10 years RI to 2 years 2 months RI. However, the fine amount and its default stipulation imposed by the trial Court shall remain intact.
13. Appellant Amit has already remained in jail for about 1 year, 9 months and 6 days and Appellant Sonu has already remained in jail for about 2 years, 1 month and 8 days. Their period of custody be set off to the sentence period of 2 years and 2 months as imposed upon them today by this Court.
14. Consequently, the appeals are **partly allowed** to the extent indicated hereinabove.
15. Let a certified copy of this judgment along with the original record be transmitted forthwith to the trial Court concerned. A copy of this judgment be also sent to the concerned Jail Superintendent where the Appellants are serving their jail sentence, for information and necessary compliance.

Sd/-
(Sanjay Kumar Jaiswal)
Judge