



2026:CGHC:6586

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 372 of 2025**

Vineet Kumar Dwivedi S/o Ram Saloni Dwivedi Aged About 29 Years R/o Roli, P/s Patherla, Distt.- Rewa (M.P.) At Present Address Kailash Nagar, P/s Khatmtari, Raipur (C.G.)

**... Appellant****versus**

State Of Chhattisgarh Through The Police Station - Khamtarai, Raipur, District- Raipur (C.G.)

**... Respondent**

---

For Appellant	: Mr. Shivendu Pandya and Mr. Rahul Mishra, Advocates
For Respondent/State	: Ms. Swati R. Gupta, Panel Lawyer

---

**Hon'ble Shri Justice Sanjay Kumar Jaiswal****Judgment on Board****05.02.2026**

1. This appeal has been preferred by the appellant under Section 415 (2) of BNSS, 2023 challenging the impugned judgment of conviction and order of sentence dated 10.02.2025 passed by learned Special (NDPS Act) Judge, District Raipur (C.G.) in Special Criminal Case (NDPS) No.248/2023, whereby the appellant has

been convicted for offence under Section 20(b)(ii)(B) of the NDPS Act, 1985 and sentenced to undergo rigorous imprisonment for 8 years with fine of Rs.80,000/-, in default of payment of fine, to undergo additional R.I. for 1 year & 6 months.

2. The case of prosecution, in short, is that, on 22.10.2023, on the basis of information received from an informant, police officials of Police Station Khamtarai, Raipur after completing necessary formalities conducted raid and seized total 8.5 Kgs of contraband Ganja from the appellant which was kept in a purple trolley bag on a motor-cycle bearing Registration No.CG 04 NZ 4314. Thereafter, a case was registered against the appellant, and the seized substance was sent to the Forensic Science Laboratory for testing. As per the test report (Ex.P-46), the seized substance was confirmed to be Ganja. After completion of the investigation, charge sheet was filed against the appellant.
3. During the course of trial, in order to bring home the offence, prosecution examined as many as 12 witnesses and exhibited 51 documents in support of its case. The statement of the appellant / accused was recorded under Section 313 of the CrPC in which he denied the circumstances appearing against him in the evidence brought on record by the prosecution, pleaded innocence and false implication.
4. Learned trial Court, after appreciation of oral and documentary evidence on record, convicted and sentenced the appellant as mentioned in the opening paragraph of this judgment, against which the present appeal has been preferred by the appellant questioning the legality, validity and correctness of the impugned judgment.
5. Learned counsels for the appellant submit that they does not want to press this appeal on merits and confines their arguments only on sentence part. They submit that the appellant was studied upto 10<sup>th</sup>

standard, now he is aged about 31 years, he is the only son of his widowed mother and having family responsibilities and he already remained in jail for about 1 year 2 months and 18 days. The incident took place in the year 2023 and since then the appellant is facing the *lis*. He has already deposited the fine amount as imposed by the Trial Court. Hence, by considering all these facts, the sentence of the appellant may be reduced to the period already undergone by him in the interest of justice.

6. Per contra, learned counsel appearing for the State, supported the impugned judgment and opposed the arguments advanced on behalf of the Appellant. She submits that the appellant has a history of one similar case, therefore, his appeal may be dismissed.
7. Heard learned counsel for the parties and perused the record including the impugned judgment.
8. Having gone through the material available on record and the evidence of Jagdamba Tiwari (PW-8), seizure memo (Ex.P-14) and the report of State Forensic Science Laboratory (Ex.P-46), establish the involvement of the Appellant 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 appellant 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.
9. 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 jurisprudes 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."

10. 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 appellant is facing the *lis* since 2023, as per arrest memo, he had studied upto 10<sup>th</sup> class, he is the only son of her widowed mother and having family responsibilities. He already remained in jail for about 1 year, 2 months and 18 days. Considering all the factors, the ends of justice would be served if the appellant's sentence is reduced to the period already undergone by him.
11. Accordingly, the conviction of the appellant for offence under

Section 20(b)(ii)(B) of the NDPS Act is maintained and the sentence of RI for 8 years is reduced to the period already undergone by him i.e. 1 year 2 months and 18 days. However, the fine amount and its default stipulation imposed by the trial Court shall remain intact.

12. Consequently, the appeal is **partly allowed** to the extent indicated hereinabove.
13. The appellant is in jail. He be released forthwith if not required to be detained in any other case/s.
14. 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 Appellant is serving his jail sentence, for information and necessary compliance.

**Sd/-  
(Sanjay Kumar Jaiswal)  
Judge**