

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 370 of 2004**

1. Nand Kumar Galori S/o Ramchandra Galori, Aged about 19 years, Occupation- Agriculture, R/o Padampur P.S.- 79, Distt.- Malkangiri.
2. Himanish Mandal S/o Anil Mandal, Aged about 25 years, Occupation- Agriculture, R/o Padampur, P.S. Malkangiri P.S.-79, Distt.- Malkangiri, (Orissa

--- Appellants**Versus**

State of Chhattisgarh Through, Police Station- Konta, District- Dantewada (C.G.).

---- Respondent

For Appellants	:	Mr. Alok Kumar Dewangan, Advocate
For Respondent	:	Mr. Vinod Tekam, PL

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****29/09/2018**

1. This appeal has been preferred against the judgment dated 21/04/2003 passed in Special Case No. 1/2003 by the Special Judge (NDPS) Bastar at Jagdalpur convicting the accused/appellants under Section 20 (B) 11 (B) of the NDPS Act and sentenced them to undergo RI for 4 years and to pay fine of Rs. 15,000/- with default stipulation.
2. Counsel for the appellants submits that since appellant No.1- Nand Kumar Galori has already undergone entire jail sentence imposed upon him, therefore, he does not want to press this appeal on behalf of appellant No.1.
3. Thus, this revision is dismissed on behalf of appellant No.1 as not pressed. This appeal is being decided only for Appellant No.2.

4. As per prosecution story on 26/11/2002, Investigating Officer received an information that two persons are coming from Odissa and having some contraband (Ganja) with them. He prepared a Panchnama and went to village- Bakara Bazar along with his staff. Both the appellants were searched and it was found that both were carrying 7-7 kg Ganja which was seized from their possession. Sample packets of the said contraband were prepared. Other formalities were done. After returning to the police station, FIR was lodged. The seized Ganja sample were sent to Forensic Science Laboratory. FSL report (Ex.P-23) is positive. Charge-sheet was filed.
5. After trial, the trial Court vide judgment dated 21/04/2003 convicted and sentenced both the appellants as mentioned in the first paragraph of this judgment. Hence, this appeal.
6. Learned counsel appearing on behalf of the Appellant No. 2 submits he does not want to press this revision on merit and confines his argument to the sentence part only. He further submits that Appellant No.2 has undergone about 2 years 6 months out of total jail sentence of 4 years. The incident is of the year 2002, Appellant No.2 is facing the *lis* since 16 years and he has no known criminal antecedent. Therefore, the jail sentence awarded to Appellant No. 2 may be reduced to the period already undergone by him.
7. Learned Counsel appearing for the State opposes the prayer made by the counsel for Appellant No.2.
8. I have heard Learned Counsel appearing for the parties and perused the record.

9. Considering the above facts and circumstances, particularly considering that out of total jail sentence of 4 years, Appellant No.2 has undergone about 2 years and 6 months and he is facing this *lis* since 2002, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon Appellant No. 2, the jail sentenced awarded to him is reduced to the period already undergone by him.
10. Consequently, the revision is partly allowed. The conviction of Appellant No.2 under Section 20 (B) 11 (B) of the NDPS Act is upheld and he is sentenced to the period already undergone by him. The fine sentence is affirmed.
11. It is reported that Appellant No. 2 is on bail. His bail bond is not discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.
12. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge