

**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE**

**HON'BLE SHRI JUSTICE ACHAL KUMAR PALIWAL  
ON THE 4<sup>th</sup> OF SEPTEMBER, 2024**

**CRIMINAL APPEAL No. 1853 of 2023**

***AKHTAR KHAN***

*Versus*

***THE STATE OF MADHYA PRADESH***

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**Appearance:**

*Mr. P.N. Das - Advocate for the appellant.*

*Mr. Pradeep Dwivedi -P.L. for the State.*

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**JUDGMENT**

Appellant has filed the present appeal against the judgment dated 10.08.2022 passed by Special Judge, (NDPS) Act, Panna, District Panna in S.C.N.D.P.S. No.4/2017, whereby appellant has been convicted under Sections 8 (c) read with section 20 (a) (ii) (b) of N.D.P.S. Act, 1985 and has been sentenced to undergo RI for 5 years and with fine of Rs.5,000/- with default stipulation.

2. At the outset, learned counsel for the appellant submits that he is not challenging the conviction part of jail sentence but he is only challenging the sentence part. Learned counsel for the appellant further submits that learned trial Court has convicted the

appellant under Sections 8 (c) read with section 20 (a) (ii) (b) of N.D.P.S. Act, 1985 and sentenced him for a period of 5 years and with fine of Rs.5,000/- with default stipulation. It is also urged that as of now, appellant has undergone sentence of 4 years, 5 months and 14 days out of 5 years rigorous imprisonment. There are no criminal antecedents of present appellant. Therefore, appeal filed by the appellant be allowed and he be sentenced with the period already undergone by him.

3. Learned counsel for the respondent/state has submitted that prosecution has proved its case by leading cogent evidence & has proved guilty of the appellant beyond reasonable doubt & there are no grounds to interfere with the same. The trial court has rightly convicted & sentenced the appellant, as above, hence, appeal is liable to be dismissed.

4. I have heard learned counsel for the appellant/state & have perused/examined record of trial court & grounds taken by the appellants/accused in the appeal memo minutely & carefully.

5. So far as conviction is concerned, this Court has examined the evidence available on record.

6. From evidence, both oral and documentary evidence, it is clearly established that at the alleged date, time and place, appellant

was found in illegal possession of 2 kgs 650 grams of *Ganja* without having any valid license. Findings recorded by learned trial Court with respect to conviction of appellant for the offence punishable under Sections 8 (c) read with section 20 (a) (ii) (b) of N.D.P.S. Act, 1985 cannot be said to be perverse or against evidence on record. Hence, findings recorded by learned trial Court with respect to conviction of appellant for aforesaid offence are hereby affirmed.

7. So far as sentence is concerned, learned trial Court has sentenced the appellant under Sections 8 (c) read with section 20 (a) (ii) (b) of N.D.P.S. Act, 1985 with R.I. for 5 years and with fine of Rs.5,000/- with default stipulation. There are no criminal antecedents of the appellant. Appellant has undergone jail sentence of more than four years out of five years rigorous imprisonment. Hence, ends of justice would be served, if appellant is sentenced with the period already undergone and with fine as imposed by learned trial Court.

8. Resultantly, appeal filed by appellant is **partly allowed** and appellant is sentenced with the period undergone by him for the offence punishable under Sections 8 (c) read with section 20 (a) (ii) (b) of N.D.P.S. Act, 1985 and with fine as imposed by learned trial Court.

9. Hence, appeal filed by the appellant is **partly allowed** to the extent as indicated herein above.

10. Copy of the judgment passed today be sent forthwith to the concerned jail for information and necessary action.

**(ACHAL KUMAR PALIWAL)**  
**JUDGE**

Hashmi