IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPEAL NO.5 OF 2025

Mr. Deep Kumar @ Dalip Chand,
S/o. Sohan Lal,
Aged 31 years,
R/o. Ghatu,
Nirmand, Kullu
Himachal Pradesh
Presently In Custody
At Modern Central Jail
Colvale, Goa .....APPELLANT.

Versus.

State
Through Anti Narcotic Cell Police Station
Represented by Public Prosecutor,
High Court of Bombay,
Porvorim, Goa. .....RESPONDENT

Mr. Sahil Sardessai, Advocate for the Applicant.

Mr. Pravin Faldessai, Additional Public Prosecutor for the Respondent.

CORAM:-ASHWIN D. BHOBE, J.

DATED :- 19th October, 2026.

ORAL ORDER:

1. Heard Mr. Sahil Sardessai, learned Advocate for the Appellant and

Mr. Pravin Faldessai, learned Additional Public Prosecutor for the State.

2. By this appeal, the Appellant / sole Accused assails the Judgment and Order dated 08.07.2024 ("impugned Judgement") passed by the Additional Sessions Judge, North Goa Mapusa ("Trial Court") in Special Criminal Case(NDPS) No.36/2017(New)/ Special Criminal Case (NDPS) Nos.3/2013 (old) by which the Appellant is convicted for the offences punishable under Section 20b(ii)(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act").

3. Upon conviction, the Appellant was sentenced to undergo rigorous imprisonment for 3 years and to pay a fine of Rs. 50000/-, with imprisonment for 1 month in default of payment.

4. In brief, the case of the prosecution is that on 04.11.2012 between 01.15 hours to 04.15 hours at Bus Stop Shed, near Green Park Hotel, Guirim, Mapusa, Goa, the Anti Narcotic Cell, Goa Police carried out a raid and apprehended the Appellant. At that time, the Appellant was found in possession of 655 grams of contraband (Charas) worth Rs.1,00,000/-.

5. The Appellant pleaded not guilty and claimed to be tried in Special Criminal Case(NDPS) No.36/2017(New). The prosecution examined 8 witnesses in support of their case. The statement of the Appellant was

recorded under Section 313 CrPC, wherein the Appellant denied the entire prosecution case. No defence was led on behalf of the Accused.

6. Mr. Sahil Sardessai, learned Advocate for the Appellant submits that the challenge in this appeal is confined to the non-compliance of Section 50 and Section 52A of the NDPS Act. He submits that the Respondent failed to comply with the provisions, accordingly, the Applicant is entitled to acquittal.

7. Mr. Pravin Faldessai, learned Additional Public Prosecutor, submits that the Anti Narcotic Cell has complied with the provisions of Section 50 of the NDPS Act. He submits that the Complaint, Panchanama and the Panch witnesses who deposed in the case have supported the prosecution case against the Appellant. In the alternative, he submits that the contraband was recovered from the Appellant's shoulder bag, therefore, the issue of Section 50 of the NDPS Act would not arise. Mr. Faldessai, learned Additional Public Prosecutor, submits that in the facts and circumstances of the present case, non-compliance with Section 52 A of the NDPS Act would not be of any assistance to the Appellant on account of the entire contraband being sent for chemical analysis.

8. From the contested arguments, the point for determination is whether the material establishes compliance with the provisions of Sections 50 and 52A of the NDPS Act?"

9. Perused records with the assistance of the learned Advocates.

10. The prosecution, in support of its case, has examined PW 5, a member of the raiding party, PW 8, the Investigating Officer and Panch Witness - PW 6. The testimonies of the said witnesses establish that there was compliance with the provisions of Section 50 of the NDPS Act. The said witnesses have withstood cross-examination. In view of the same, I am unable to accept the contention of Mr. Sahil Sardessai, learned Advocate for the Appellant.

11. Mr. Sahil Sardessai, learned Advocate for the Appellant, though raised the contentions of non-compliance with Section 52 A of the NDPS Act, he was unable to substantiate the same from the records.

12. The Trial Court, on detailed analysis of the material on record, has held the Appellant guilty of the offences charged in Special Criminal Case(NDPS) No.36/2017(New). I do not find any perversity in the view taken by the Trial Court.

13. Mr. Sahil Sardessai, learned Advocate for the Appellant, submits

that the Applicant was arrested on 04.11.2012 and remained in custody during the investigation until 16.08.2013, i.e. 9 months 12 days. He submits that upon conviction on 08.07.2024, the Applicant was taken into custody and has remained in jail to date. He submits that the period from 08.07.2024 works out to 2 years 3 months and 11 days.

14. Mr. Sahil Sardessai, learned Advocate for the Appellant, submits that as this Court has rejected the case of the Appellant on merits, considering the peculiar circumstances of this matter, the fine of Rs. 50,000/- imposed in the impugned judgment be reduced. Mr. Pravin Faldessai, learned Additional Public Prosecutor for the State, in the context of reducing the fine, leaves the matter to the discretion of this Court.

15. The Appellant has been in jail for 3 years and 22 days as on date. Thus, the Appellant has undergone the substantive sentence of 3 years. The Appellant is presently undergoing default imprisonment for non payment of fine. The punishment for the offence charged against the Appellant does not prescribe a minimum fine. In the peculiar facts of this case, the Appellant deserves indulgence and the fine of Rs. 50,000/- imposed in the impugned judgment needs to be reduced. Bearing in

mind the above, the fine of Rs. 50,000/- imposed in the impugned judgment is reduced to Rs. 5,000/-.

16. Though the Appellant's conviction for offences punishable under Section 20b(ii)(b) of the NDPS Act is upheld, the fine imposed in the impugned Judgement is modified to the extent indicated above

17. This Appeal is therefore partly allowed to the extent stated above.

18. Mr. Sahil Sardessai, learned Advocate, submits that the Appellant shall deposit a fine of Rs. 5000/- (Rupees Five Thousand only) with the Registry of this Court. Mr. Pravin Faldessai, learned Additional Public Prosecutor, submits that this would be a proper course and that the same be accepted. The Appellant is permitted to deposit a fine of Rs. 5000/- (Rupees Five Thousand only) with the Registry of this Court.

19. Criminal Appeal No. 5 of 2025 stands disposed.

ASHWIN D. BHOBE, J.

Signed by: MEENA VISHAL BHOIR
Designation: Private Secretary
Date: 19/10/2026 18:28:25