

LEGALFOXES LAW TIMES

A CRITICAL ANALYSIS OF DRUG ADDICTION ,OFFENCES AND ITS RELATION TO NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT 1985

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ABSTRACT

The drug addiction and habituation has been prevalent in the society from ages, it gives rise to increasing number of crimes and criminality till date. This article highlights the factors that are responsible for the spread of the evil and problem, moreover the issue is discussed in international perspective as various conferences held, conventions and statute passed for controlling and preventing the issue .The article discusses how the marijuana is consumed in large scale and its impact along with an analysis of NDPS Act 1985.

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INTRODUCTION

"Sometimes your whole life could hinge in a fraction of inch .Or the beat of nano second. Or the knock on a door.Kind of made a male believe in the divine. It really did." - J.R.Ward

Drug addiction though it is considered as crime without victim as the individual himself is the victim; it effects and has dangerous consequences on the society in social, cultural and economic development of the nation.

Drug and narcotic addiction has become one of the most common problems in many nations. The narcotic addicts are frequently involved in criminal behaviour and consequently many of them commit thousands of offences .Based on prison statistics it is found that in the current days ,there are more numbers of drugs-criminal episodes which explains there exists the relation between drug addiction and various aggressive acts leading to commit crime.(1)

VARIOUS REASONS BEHIND THE INCREASING NUMBER OF DRUG ADDICTS

- 1) One of the factors responsible for the increasing number of drug addiction of teens are due to the curiosity, the teens many times start using the substances due to the engagement of themselves in the peer pressure or in other word, they become prey to the wrong groups and use these for the purpose of fun .They initially take these on the experimental basis.
- 2) But later on the frequency of consuming the narcotics increases day by day which leads to addiction. The substance abuse disorders are commonly found in the school going children.
- 3) The growth and advancement in pharmaceutical and medical sciences have given a huge scope and areas for the production of a variety of toxic synthetic substances and this development has contributed substantially to drug abuse and addiction of it.
- 4) Another reason is now a days, with the increase of work of both spouses they can't take proper care or to give proper guidance to their children and from the beginning the children grows and is taken care by the care taker in case of neutral family .With the disintegration of joint family system; the children can't get proper guidance which are also contributory factors to encourage this vice.
- 5) Sometimes people used to take drugs in order to get relief from severe painful diseases, however there are many addicts whose neurological heritage is such that they find it difficult to live in absence of narcotic drugs which makes them addicted to the narcotic drugs.

- 6) There is requirement of communication between parents and their children by which helps the parents to understand the child psychology and ultimately they can give guidance to avoid the use of drugs such as opium, ganja, charas, gutka etc. and provides them added strength and vigour to withstand hard labour.
- 7) Frustration due to various reasons is like failures, sorrows and miseries of life divert the people's mind to take narcotic drugs and at last they become addicted to these drugs.
- 8) Social disorganization is another factor for the menace of drug abuse or misuse. After consuming the drugs once they want to remain in the world of imagination and avoid facing the reality.

The National Committee on Drug Addiction was set up by the Government of India in 1976 to enquire into the extent of addiction to drugs in the country, to determine motivation for drug addiction and to identify types of drugs that are misused and suggest steps to prevent the misuse. The Committee has reported that establishment of a National Advisory Board on Drug Control. It outlined the need for cooperation of Police, Excise and Drug Control departments to curb this Menace and the necessity for creating awareness in 1985 under the Act.(2)

INTERNATIONAL PERSPECTIVE OF THE PROBLEM

A thirteen nation international conference on narcotic drugs was held in China in 1909, later in 1912 International Opium Convention called 'the Hague Convention on Narcotics' was held where large number of members attended. Then many other conventions and declarations were made in order to combat the drug trafficking.

Another convention was 'the Single Convention on Narcotic Drugs, 1961' (SCND) which attempted to consolidate the international drugs control machinery. The Convention codified all the existing multi-national treaties and merged the Permanent Central Board and Drugs Supervisory Board into a single International Narcotics Control Board (INCB). Apart from that as per Article 38 proviso (1) of Single Convention on Narcotic Drugs Act, 1961; the provision of

medical treatment and rehabilitation of drug addicts that should be widely expanded has been introduced.

The Protocol of 1972 which came into force on 8th August 1975 made changes in SCND Act where it focused on the requirements for treatment and rehabilitation of drug abusers instead of incarceration in prison. The International Narcotics Control Board was given the responsibility regarding maintaining the balance between supply of narcotic and demand of it.

‘Convention on Psychotropic Substances’ was signed in 1971 and enforced in 1976 where it emphasizes under Article 20(1) the urgency for reducing of abuse of psychotropic substances and early identification , treatment, education, after care, rehabilitation and social reintegration of the persons involved. Then in 1981,The UN General Assembly formed a five years action programme under ‘International Drug Abuse Control Strategy’, which also focused on taking measures to prevent drug trafficking and to provide treatment to the addicts.

A conference on International Level regarding the Drug Control was held in Vienna from 17th to 26th June 1987(3). In 1997 another international conference on ‘Global Drugs Law’ was conducted by the Indian Law Institute, Delhi in collaboration with the United Nations International Drug Control Programme (UNDCP) and the International Law Association (India Regional Branch) which stated its faith in human dignity as well as the legitimate aspirations of humankind. The conference reiterated and tried to give a solution to issues such as:

- 1) To minimise the supply of drugs to affluent nations
- 2) To make a broad system in order to collect, evaluate as well as to transmit relevant data for study regarding drugs.
- 3) To organize an educational programme for creating awareness in people regarding drug abuse and to prepare training and educational materials so that it can help drug addicts in vocational and self-employment opportunities.
- 4) To ensure an effective enforcement of a system of the international control of drug by regulating the production ,manufacture , use, demand and supply of drugs for illegal use.

5) to form a special task force of committed honest personnel having the sanction of relevant government agency to infiltrate the network of drug trade operators and bring them to justice.(4)

VARIOUS CLASSIFICATION OF DRUGS

International Convention on Drugs has classified drugs into two categories that are - (A) Narcotic Drugs (B) Psychotropic Substances

(A) Narcotic drugs -The narcotic drugs includes the following -

(a) Opium and its derivatives like brown sugar, heroin and codeine.

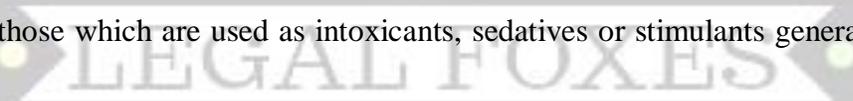
(b) Cocolef, cocaine

(c) Cannabis, cannabis resin, extracts and tinctures.

(d) Methadene, pethidine, hebaine.

(e) Psychotropic Substances include Valium, diazepam, tidijestic, morphine etc.

The substances those which are used as intoxicants, sedatives or stimulants generally consumed in the form of –



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Tobacco in the form of cigerrates, bidi, gutka etc.

Cannabis such as ink eraser fluid, glue, petrol.

Opioid such as opium, heroin, pharmaceutical opioids.

Sedatives such as Alprazolam, Diazepam.

Based on the medical research it is found that heroin, alcohols and catch cocaine are most harmful drugs (5).

MARIJUANA USE AT HISTORIC HIGHS AMONG COLLEGE STUDENTS

India is a signatory to the 'International Convention on Narcotics Drugs, 1961' where the marijuana is banned in India and it can be used only in medical and research purposes. Later on; the use of it was completely banned due to subsequent passing of NDPS Act 1985. Though it is legalised in many countries as it considered to be less harmful than alcohol and tobacco(6); it is not legalised in India till date.

Based on the Monitoring the Future (MTF) survey data; it is found that the large number of college students of the age group of 19 to 22 are taking marijuana in the earlier few years, including vaping with marijuana. The survey is funded by the National Institute on Drug Abuse, part of the National Institutes of Health, and conducted by scientists at the University of Michigan's Institute for Social Research.

Marijuana Use: Moreover the survey has showed that college students and their non-college peers are using almost same type and amount of marijuana that is about 43%, representing an approximate 7% five-year increase for college students with rates for both groups at historic highs over the past 35 years. But the non-college peers are more involved in taking and using marijuana, one in nine non-college peers reporting almost regularly as compared to about one in 17 college students.

Marijuana Vaping: The vaping of marijuana among college students has increased in large number that is between 2017 and 2018, to 10.9% from 5.2%. (7)**Nicotine Vaping:** Among college students, past month nicotine vaping more than doubled from 2017 to 2018, to 15.5%, from 6.1% one of the largest proportional increases for any substance since the MTF survey began more than 40 years ago. Nicotine vaping among college students now appears to be more

popular than the rate reported by the non-college group (12.5%). The use of the coverages is more among the non-college peers than the college students.

Based on the survey following were also mentioned -

Opioids - the non-medical use of prescription opioids is decreasing day by day. In 2013, the use of opioid among the college students were about 5.4% which has declined in 2018 to 2.7 and in case of non-college peers too, in 2013 the use of it was 9.6% which has lowered down to 3.2% in 2018.

Adderall: There is an interesting gender differences as both men and women both the college and non-college respondents have huge difference in the non-medical use of Adderall. In case of college students ,the misuse rates were 14.6% among college men and 8.8% .but the rates were higher, however, in case of non-college women than in non-college men as the non-college women comes out of about 10.1% and non-college men are about 5.3% (8).



Cocaine: While in case of college students; the use of cocaine has deliberately increased to 5.2% in 2018 from 2.7% in 2013 and is increasing year by year based on the survey reports.

Alcohol: Consumption of alcohol like binge drinking is getting lower in both college and non-college adults, dipping below 30% for the first time in 2018 for college students at just above 28%, and sits at about 25% for non-college adults.

In 2018, survey also marked the first use of web-based surveys among college-age and other adults. Half of the sample of adults randomly received the traditional mail surveys and the other

half received the option to take the survey online. By randomly assigning respondents to either paper- or web-based surveys, scientists can detect the extent to which the survey mode made a difference in the estimates of historical and developmental trends (8).

NIDA DIRECTOR OUTLINES POTENTIAL RISK TO PEOPLE WHO SMOKE AND USE DRUGS DURING COVID-19 PANDEMIC

Dr. Nora D. Volkow, director of the National Institute on Drug Abuse (NIDA), which is a part of the National Institutes of Health outlined in the Annual of internal medicine that how dangerous it will be in the present pandemic for addicts due to drug overdose as it can lead to death of the individual during the growing COVID - 19. Dr. Volkow told that ‘in case of serious health risks of COVID-19 it poses challenges and more suffering to the people those who consume drugs or smoke, and are struggling with substance use disorders (SUD), or are in recovery from addiction.’

The Ideas and Opinions piece raises several important concerns regarding COVID-19 for specific vulnerable populations, including:

Chances are more that those patients of lungs disorder of functioning may be a prey to COVID-19. Specifically, people who used to smoke or vape, or use opioids or methamphetamine may suffer from corona virus. In addition, chronic opioid use already increases the risk of slowed breathing due to hypoxemia, which can lead to cardiac and pulmonary complications that may result in overdose and death. As with the rise of COVID - 19 pandemic the need of more consciousness regarding the health is required so as to remain safe from the viruses as it is more critical for higher risk groups, including people who smoke, vape, or use opioids or methamphetamine. He told to the clinicians to be alert regarding the chances of increased risks for adverse COVID-19 outcomes in these patients.

Apart from that, those who are recovering from narcotic drug addiction may face new challenges. Physical distancing measures, while critical to COVID-19 mitigation, eliminate the important element of social support needed for addiction recovery. Perhaps, people with opioid use disorder may face obstacles while obtaining medications (i.e., buprenorphine or methadone) or obtaining services from syringe services programs.

Social distancing will also slowly reduce the chances of infection, administration of naloxone to reverse overdose may be less likely, potentially resulting in more fatalities.

Dr. Volkow lauds efforts by the public health community to reduce new challenges for people in recovery, including the deployment of virtual support meetings for those with internet access and the possibility of take-home medications for some people in addiction treatment. Above all, Dr. Volkow highlighted that, like other vulnerable people in the United States, people with SUD should be given attention during this crisis (10).

NDPS ACT(NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT 1985)

The NDPS Act has been passed in order to amend the laws relating to narcotic drugs and to make provisions for regulation relating to Narcotic Drugs and Psychotropic Substances Act 1985 which was later on called ‘the Prevention of Illicit Traffic in Narcotics Drugs and Psychotropic Substances (Amendment) Act,1988’ and it is enforced on 4th July 1988.

As per Sec 4 of the Act *“the Central Government is empowered to take necessary measures for preventing and combating abuse of narcotic drugs and Psychotropic Substances and its illicit transfer, while taking measures following points are considered -*

- *Obligations under international conventions*
- *Coordination of actions by various officers, State Government and other authorities.*
- *Helping to the authorities of foreign countries and international organizations with a purpose to facilitating coordination and universal action to take steps to reduce the illegal trafficking of drugs.*
- *Identification, treatment, education, after care, rehabilitation and social re-integration of addicts.*
- *Providing supply of narcotic drugs and Psychotropic Substances for medical use.*
- *Central Government may take such other way for combating and preventing illegal use of drugs” (11).*

As per Sec 5; “A Narcotic Commissioner and such other officers are appointed by the Central Government who shall either by himself or officers subordinate to him perform the functions regarding superintendents of the opium poppy cultivation and the production of opium and all perform such other works as given by the Central Government under the Act.”

As per Section 6, “The Central Government is empowered to constitute an advisory committee known as Narcotics Drugs and Psychotropic Substances Consultative Committee with the purpose to advise the Government when required. The Consultative Committee consists of a Chairperson and other members.

Powers of Committee -

1) *The Committee has the power to regulate its own procedure and to meet when required by the Central Government.*

2) *The Committee is empowered to constitute one or more sub committees whether generally or for particular matters with the purpose of efficient discharge of the functions as given by the Central Government ”(12).*

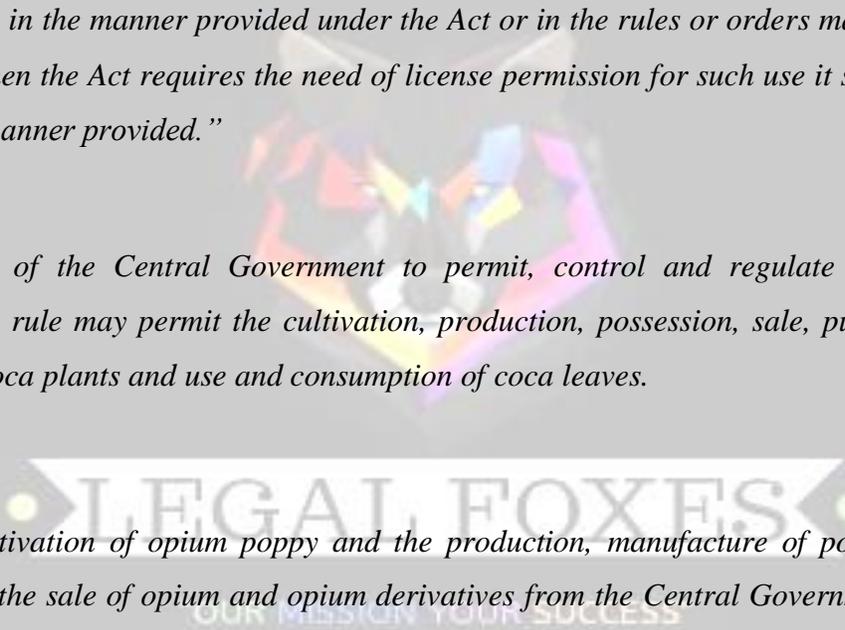
Section 7 explains that *“Officers of State Government - The State Government may appoint such officers with such designation as it thinks fit”*.

Section 8: *“Prohibition of certain operations - Following are the substances where restrictions has been made*

(1) No person is permitted to cultivate any coca plant or opium poppy or cannabis plant.

(2) Narcotic Drugs and Psychotropic Substances should only be used for the medical purpose in the manner provided under the Act or in the rules or orders made thereunder, even when the Act requires the need of license permission for such use it should be taken in the manner provided.”

Sec 9 *“Power of the Central Government to permit, control and regulate - The Central Government by rule may permit the cultivation, production, possession, sale, purchase, import or export the coca plants and use and consumption of coca leaves.*

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- *The cultivation of opium poppy and the production, manufacture of poppy straw and opium; the sale of opium and opium derivatives from the Central Government for export from India or sale to state Government of manufacturing chemists.*
 - *The manufacture of manufactured drugs other than opium but not including manufacture of medicinal opium or other preparation containing any manufactured drugs from materials which the maker is lawfully entitled to possess.*
 - *The manufacture, import, export, possession, transport, sale, purchase, consumption of the narcotic drugs.*
 - *The manufacture, transport, sale, export, import of the psychotropic substances*

- *The import into India or export from India and transshipment of narcotic drugs and Psychotropic Substances”(13).*

Section 15 Punishes those who contravenes the provision in relation to poppy straw: “As if any person does any act in contravention of any provisions of this Act or any rule or order made or condition of a licence granted thereunder, produces, possesses, transports, imports inter-State, exports inter-State, sells, purchases, uses or omits to warehouse poppy straw or removes or does any act in respect of warehoused poppy straw shall be punishable in case of contravention involving small quantity, with rigorous imprisonment one year or with fine maximum.

Where the contravention involves greater than small quantity, then he shall be punishable with rigorous imprisonment up to ten years maximum, and with fine up to lakh rupees maximum.

Where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may up to twenty years maximum and fine which shall not be less than one lakh rupees” (14).

Section16 punishes the one who does any act in contravention to coca plant and coca leaves.

“If anyone violates any of the provision of this Act and cultivates any coca plant or gathers any portion of a coca plant or produces, possesses, sells, purchases, transports, or uses coca leaves shall be punishable with rigorous imprisonment up to ten years maximum, and with fine up to one lakh rupees maximum” (15).

Section 17 Punishment for contravention in relation to prepared opium., “If anyone violates any of the provision of this Act manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses prepared opium shall be punishable, with rigorous imprisonment up to one year or with fine up to ten thousand rupees maximum in both case , or with both shall be conferred in case the contravention is of small quantity and rigorous imprisonment up to ten years, and with fine up to one lakh rupees maximum, in case

the contravention involves quality lesser than commercial quantity but greater than small quantity and rigorous imprisonment up to ten years but which may extend to twenty years, and shall also be liable to fine up to one lakh rupees but that may extend to two lakh rupees in case contravention involves commercial quantity,

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.”

Section 18 Punishment for contravention in relation to opium poppy and opium: *“If anyone contravenes any provision of this Act and cultivates the opium poppy or produces, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses opium shall be punishable,*

(a) with rigorous imprisonment up to one year, or with fine up to ten thousand rupees, or with both in case the contravention involves small quantity,

(b) with rigorous imprisonment up to twenty years, and shall also be liable to fine up to one lakh rupees which may extend to two lakh rupees in case the contravention involves commercial quantity,

The court may impose a fine exceeding two lakh rupees after reasons to be recorded in the judgment.

(c) In any other case, with rigorous imprisonment which may extend to ten years and with fine which may extend to one lakh rupees” (16).

Section 19 Punishment for embezzlement of opium by cultivator: *“Any cultivator licensed to cultivate the opium poppy on account of the Central Government who embezzles or otherwise illegally disposes of the opium produced or any part thereof, shall be punishable with rigorous imprisonment up to ten years but which may extend to twenty years and shall also be liable to fine up to one lakh rupees but which may extend to two lakh rupees*

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees”.

Section 20 Punishment for contravention in relation to cannabis plant and cannabis: *“If anyone contravenes any provision of this Act or any rule or order made or condition of*

licence granted thereunder, where such contravention relates to clause (a) with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine which may extend to one lakh rupees; and

Where such contravention relates to sub-clause (b)

And involves small quantity, with rigorous imprisonment for a term which may extend to [one year], or with fine which may extend to ten thousand rupees, or with both;

and involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees;

and involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees”(17).

Section 21 Punishment for contravention in relation to manufactured drugs and preparations: *“If anyone contravenes or violate any of provision of this Act, and manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses any manufactured drug or any preparation containing any manufactured drug shall be punishable,*

With rigorous imprisonment up to one year maximum or with fine up to ten thousand rupees maximum, or with both in cases the contravention involves small quantity,

with rigorous imprisonment up to ten years maximum, and with fine up to one lakh rupees maximum in case contravention involves quantity, lesser than commercial quantity but greater than small quantity,

with rigorous imprisonment up to ten years but which may extend to twenty years, and shall also be liable to fine up to one lakh rupees but which may extend to two lakh rupees in cases contravention involves commercial quantity,

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.”

Section 22 Punishment for contravention in relation to psychotropic substances: *“If anyone contravenes or violates any of the provision of this Act or any rule or order made or condition of licence granted thereunder, manufactures, possesses, sells, purchases, transports, imports inter-State, exports inter-State or uses any psychotropic substance shall be punishable,—*

With rigorous imprisonment up to one year maximum or with fine up to ten thousand rupees maximum or with both in case contravention involves small quantity,

with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend in case contravention involves quantity lesser than commercial quantity but greater than small quantity

With rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees”.

Section 23 Punishment for illegal import into India, export from India or transshipment of narcotic drugs and psychotropic substances: *“If anyone contravenes any of provision of this Act or any rule or order made or condition of licence or permit granted or certificate or authorisation issued thereunder, imports into India or exports from India or transships any narcotic drug or psychotropic substance shall be punishable*

With rigorous imprisonment up to one year or with fine up to ten thousand rupees, or with both in case the contravention involves small quantity,

with rigorous imprisonment up to ten years, and with fine which may extend to one lakh rupees in case contravention involves quantity lesser than commercial quantity but greater than small quantity,

with rigorous imprisonment up to ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees in case contravention involves commercial quantity,

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees” (18).

Section 24 Punishment for external dealings in narcotic drugs and psychotropic substances in contravention of section 12: *“If anyone engages in or controls any trade whereby a narcotic drug or a psychotropic substance is obtained outside India and supplied to any person residing foreign without taking prior permission of the Central Government or contravention the provision under Sec 12 shall be punishable with rigorous imprisonment up to ten year maximum but which may extend to twenty years and shall also be liable to fine up to one lakh rupees but may extend to two lakh rupees*

However the court may impose a fine exceeding two lakh rupees after recording the reason in writing” (19).

Section 25 Punishment given for allowing premises, etc., to be used for commission of an offence: *“If the owner or occupier or having the control or use of any house, room, enclosure, space, place, animal or conveyance, knowingly permits it to be used for the commission by any other person of an offence punishable under any provision of this Act, shall be punishable.”*

Sec 25A Punishment given for contravention of orders made under section 9A: *“If any person contravenes an order made under section 9A, he shall be punishable with rigorous imprisonment up to ten years maximum and shall also be liable to fine up to one lakh rupees maximum.*

The court may impose a fine exceeding one lakh rupees after recording the reason behind the decision in written form.”

As per Sec 27 provides that *“if a drug addict proves that he possessed drug of less than 'small quantity' as notified by the Central Government and he taken it for his own personal consumption and not for sale, he shall be punished which may extend to 1 year maximum.”*

In Wilfred Joseph Dawood Lama Vs State of Maharashtra (20), in this case Brown sugar was seized by the Police from the accused which was actually narcotic drugs, the Apex Court confirmed the conviction of the accused (foreign national) who was charged under the provision of Narcotic Drugs & Psychotropic Substances Act, 1985 and punishment is awarded up to 10 years and fine up to Rs 100,000/ and where due to default to pay the fine leads to further rigorous imprisonment of two years more. The Court further stated that *“the police officer taking search is under duty to inform the accused or person arrested that if wants he shall be searched in the presence of a Gazette Officer or a Magistrate.”*

In **Birendra Kumar Rai Vs Union of India (21)**; the Supreme Court held that the case comes under the Prevention of Illegal Traffic in Narcotics Drugs & Psychotropic Substances Act, 1988 the accused is charged under Sec 3 of the Act and the Article 22(5) of Indian Constitution is not attracted. Hence the detention of the accused under this Act will not be held arbitrary in nature.

In **R Vs Tandi (22)**, the Court held that: defence of insanity due to intoxication can't be allowed in that case as the accused who used to consume armouy or barley brand of moderate alcohol regularly, taken a full bottle of vodka which is highly intoxicant in nature so that she can lose her mental ability to think rationally and due to voluntary intoxication and in aggressive mood strangled her eleven years old daughter and hence she was awarded sentence on the ground of the offence.

SUPREME COURT ADD TEETH TO ANTI- NARCOTIC LAW,SAYS ENTIRE WEIGHT OF BANNED DRUG MIXTURE TO DETERMINE QUALITY

The Supreme Court has provided more teeth to the anti-narcotics law and held that: *“it is the quantity of the entire banned drug mixture does matter and not its purity which will find out what*

the punishment will be conferred on a criminal under the legislation". The court stated that "the amount of neutral substance in a mixture has to be taken along with the actual weight of the banned substances for evaluating if it is a "small or commercial quantity" under the Narcotic Drugs and Psychotropic Substances (NDPS) Act". Moreover stated that the use of the drugs consumption by the youngsters and adults are rapidly increasing due to various reasons either it may be due to the frustration of the failures, or taking experiment to use etc. which is itself an offence and due to the use of it many serious crimes are occurring like robbery, theft, extortion, murder etc. as the addicted one are in desire of taking drugs and these matters are required to be taken with iron hands.

A 3-judge bench of Justices Arun Mishra, Indira Banerjee and M R Shah stated that *"the two bench verdict of case of E Michael Raj in year 2008 was "not a good law" for considering that in a mixture of narcotic drugs, only the weight of the banned substance is relevant for the purpose of determining whether it would constitute small quantity or commercial quantity. As per the NDPS Act, there is a provision for the punishment those who are in possession of commercial quantity of the narcotic drugs and Psychotropic substance that are higher than the smaller quantity".* The 3 judge bench reiterated that *"in case of seizure of mixture of narcotic drugs or psychotropic substances with one or more neutral substances, the quantity of neutral substances is required to be taken into consideration along with actual amount of substance by weight of the offending drug, and that is while determining the small or commercial quantity of the Narcotic Drugs or Psychotropic Substances. It said that illicit street drugs like heroin which is very powerful and illegal street drugs as well as opiate which is originated from morphine are rarely and infrequently sold in a pure form and hence they are almost adulterated or mixed with other substance like caffeine which when it is mixed with heroin so that it causes the heroin to vaporize at a lower rate. That could enable the drug users to consume the drug faster and get a big punch sooner. This drug can easily be 'cut' with a variety of different substances"* (23).

This means that drug dealer used to mix other drugs or non-intoxicating substances to the intoxicating drug like heroin so that they can sell more and earn more amount. Brown-sugar /

smack are usually made available in powder form. The substance is only about 20 per cent heroin. The heroin is mixed with other substances like chalk powder, zinc oxide, because of these, impurities in the drug; brown-sugar is cheaper but more dangerous (24).

While , in the case of E Michael Raj, the court holds the view that in the mixture of narcotic drugs or psychotropic substance with one or more neutral substances, the quantity of the neutral substances is not to be taken into consideration while determining the small quantity or commercial quantity of a narcotic drug or psychotropic substance and only the actual content by weight of the offending narcotic drug which is relevant for the purpose of determining whether it would constitute small quantity or commercial quantity, is not a good law. The Apex court stated the NDPS Act is a special law and is enacted have many aims to serve and is intended to combat the menace of drugs consumption and its illegal use which ultimately effects the individual consuming it and destroys the public health and national health.

The punishment part along with the preventive measures in drug trafficking are more important and required for controlling and regulating the society from these menace. Therefore, Prevention of illicit traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 came into force. The aim of it was to prevent illicit traffic rather than punish after the offence was committed.

The court said that *“the problem of drug addicts is not only a domestic matter but it’s even serious at international level as the mafia is working throughout the world. With the passage of time and the development in the field of illicit drug traffic and during abuse at national and international level, many deficiencies in the existing laws have come to notice.”* And at last the Court rejected the challenge made by several petitioners to November 18, 2009, notification of Central government by which it had said that while determining the small or commercial quantity of narcotic drugs in a mixture with one or more neutral substances, the weight of neutral substances are also to be included with the actual content of the offending drug. The bench said

the 2009 notification is not void as it is not ultra vires to the Scheme and the provisions provided under the NDPS Act and at last dismissed a batch of petitions (25).

DRUG ABUSE AND CRIMES

Based on many researches it was found that narcotics addicts often commit predatory crimes like stealing, burglary, robbery, shop lifting and many more. Many offenders of heinous crime used to take narcotic drugs in order to get stimulation and courage to commit the crimes like rape, murder etc.

Drug abuse is implicated in at least three types of drug-related offenses: (1) offenses defined by drug possession or sales, (2) offenses directly related to drug abuse (e.g., stealing to get money for drugs), and (3) offenses related to a lifestyle that predisposes the drug abuser to engage in illegal activity. For example, through association with other offenders or with illicit markets. Those who use illegal drugs for consumption are more likely to commit crimes of violent nature which ultimately harms others they used commit crimes after using drugs or alcohol. According to 2012 statistics from the Department of Justice's (DOJ's) Bureau of Justice Statistics (BJS), the total correctional population is estimated to be 6,937,600, with 4,794,000 individuals on probation or under parole supervision, and drug law violations accounting for the most common type of criminal offense. In another survey of State and Federal prisoners, BJS found that about half of the prisoners met Diagnostic and Statistical Manual for Mental Disorders (DSM) criteria for drug abuse or completely depending upon it but only fewer than 20 percent who needed treatment received it.

Juvenile justice systems also report high levels of drug abuse. In 2008, approximately 10 percent of the estimated 2.1 million juvenile arrests were for drug abuse or underage drinking violations. Even juveniles are there who used drugs and out of intoxication committed offence, and at last two-thirds of detained juveniles may have a substance use disorder (SUD), which is a disorder took place due to over use of drugs, and the female juveniles who enter the system generally

have higher SUD rates than males .The case for treating drug abusing offenders is compelling. Due to the drug addict's treatment, a lot of benefit was observed in the society .Effective treatment decreases the chances of future drug use and drug-related criminal behaviour, and ultimately can improve the individual who is an offender to a normal person.

Treatment is an effective intervention for drug abusers, including those who are involved with the criminal justice system. However, the effectiveness of drug treatment depends on both the individual and the program, and on whether interventions and treatment services are available and appropriate for the individual's needs (26) (27).

CONCLUSION

It is required to be considered and given proper attention that drug addiction is one of the main off shoots of modern rapidly developing and changing social patterns, where much more strict laws are required to be enacted with the purpose to reduce the menace which is damaging the moral fabric of society and the culture .

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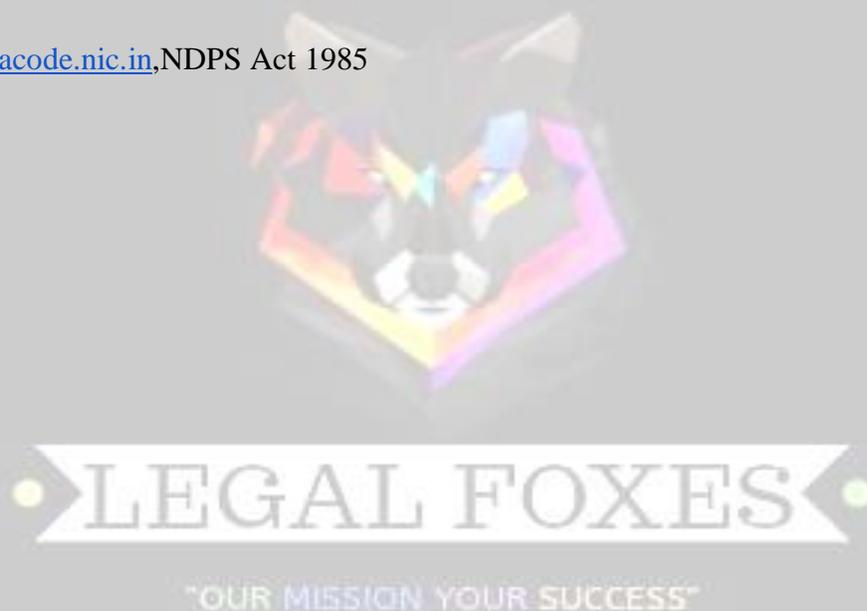
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Abbreviations used in the article

[1]NDPS - Narcotic Drugs and Psychotropic Substances

[2]Vs - Versus

[3]Sec - Section

[4]SCND - Single Convention on Narcotic Drugs

[5]INCB -International Narcotics Control Board

[6]UN - United Nations

[7]UNDCP - United Nations International Drug Control Programme.

[8]MTF -Monitoring the Future

[9]NIDA- National Institute on Drug Abuse

[10]SUD - Substance Use Disorder

[11]BJS dl- Bureaucracy of Justice Statics

[12]DOS - Department of Justice

[13]Dr. - Doctor

[14]& - And

[15]SC - Supreme Court

[16]DSM

[17]Art - Article

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