Drug Coverage in NDPS Act

Why in news?

Karnataka High Court recently observed that nowhere in the Narcotic Drugs and Psychotropic Substances (NDPS) Act is bhang referred to as a prohibited drink or prohibited drug.

What is NDPS Act?

> *Bhang is the edible preparation made from the leaves of the cannabis plant, often incorporated into drinks such as thandai and lassiand is frequently consumed during the festivals of Holi and Mahashivratri.*

- Enacted in 1985, the NDPS Act is the main legislation that deals with drugs and their trafficking.
- Various provisions of the Act punish production, manufacture, sale, possession, consumption, purchase, transport, and use of banned drugs, except for medical and scientific purposes.
- **Coverage**- The NDPS Act defines cannabis (hemp) as a narcotic drug based on the parts of the plant that come under its purview.
    - **Charas**- The separated resin, in whatever form obtained from the cannabis plant including the concentrated preparation and resin
    - **Ganja**- The flowering or fruiting tops of the cannabis (excluding the seeds and leaves when not accompanied by the tops)
    - Any mixture, with or without any neutral material, of any of the above forms of cannabis or any drink prepared therefrom
- **Exclusion**- The Act excludes seeds and leaves when not accompanied by the tops.
- Bhang, which is made with the leaves of the plant, is not mentioned in the NDPS Act.
- **Special provision**- The Act states that the government may allow cultivation of any cannabis plant for industrial purposes only of obtaining fibre or seed or for horticultural purposes.

What is the criminal liability for cannabis cultivation?

- The NDPS Act lays out the punishment for the production, manufacture, sale, purchase, import and inter-state export of cannabis.
- The prescribed punishment is **based on the amount of drugs seized**.
- **Small quantity**- Contravention that involves 1 kg of ganja will result in rigorous imprisonment that may extend to 1 year and/or a fine which may extend to Rs 10,000.
- **Commercial quantity**- Contravention that involves 20 kg ganja involves rigorous imprisonment of 10 to 20 years, including a fine that is not less than Rs 1 to 2 lakhs.

- **Intermediate**- The contravention that involves quantity less than commercial but greater than small quantity, rigorous imprisonment up to 10 years is prescribed and a fine which may extend to Rs 1 lakh.

A 2019 report by the National Drug Dependent Treatment Centre under AIIMS noted that about 7.2 million people in India are addicted to cannabis.

References

1. https://indianexpress.com/article/explained/explained-bhang-ganja-and-criminality-in-the-ndps-act-8123829/
2. https://indianexpress.com/article/research/cannabis-in-india-a-rather-long-story-with-its-highs-and-lows-6592020/

Quick facts

Cannabis

- Cannabis is a sun-loving plant.
- It is known to have originated in the steppes of Central Asia, from where it was brought to India through human migration between 2000 and 1000 BCE.
- Reference to cannabis along with its medicinal and spiritual properties is made extensively in Vedic literature.
- To curtail the growing popularity of cannabis in India, the British Parliament passed a law to tax bhang, ganja and charas in 1798.
- The first real push to criminalise cannabis consumption in the country came in 1961, at the **Convention on Narcotic Drugs**, which later facilitated the enactment of the NDPS act.
- Cannabis is illegal in India but still is still prevalent across the social and spiritual landscape of India through the usage of variants like bhang.

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