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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.A. 528/2018

BRIJAN SINGH @ BABLU

.....Appellant

Through: Mr. Vinayak Bhandari and Ms. Teesta Mishra, Advocates.

versus

STATE

.....Respondent

Through: Mr Pradeep Gahalot, APP for State with SI Ritik PS Geeta Colony, Delhi.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

19.12.2025

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1. Mr. Vinayak Bhandari, learned counsel, enters appearance on behalf of the appellant. Mr. Zeeshan Hashmi, Advocate, seeks discharge. It is ordered accordingly.

2. By way of the present appeal, the appellant seeks to assail the judgment of conviction dated 07.02.2018 and the order on sentence dated 19.02.2018 passed by the learned Additional Sessions Judge-02 (East)/Special Judge (NDPS), Karkardooma Courts, Delhi in Sessions Case No. 398/2016 arising out of FIR No. 414/2013 registered under Section 15 NDPS Act at P.S. Geeta Colony.

Vide the impugned order on sentence, the appellant was sentenced to undergo RI for a period of 4 years and pay a fine of Rs.20,000/-, in default whereof he would undergo SI for 3 months, for the offence under Section



15(b) NDPS Act. The appellant was also granted the benefit under Section 428 Cr.P.C.

3. Pithily put, the case of the prosecution is that on 24.09.2013 at about 3:40 a.m., a secret informer came to P.S. Geeta Colony and informed SI *Dinesh Kumar* that the appellant herein was involved in supply of illegal *doda posht* (poppy straw) and that he would soon be coming under the Geeta Colony Flyover with the said contraband. DD No. 4A was recorded, and on the instructions of the SHO, a raiding party comprising SI *Dinesh Kumar*, Ct. *Naushad*, and Ct. *Dharmender* reached the spot along with the secret informer and a field-testing kit. At about 5:00 a.m., the secret informer pointed out the appellant, who was standing at the nearby bus stand with a bag. The raiding party approached the appellant, completed all necessary formalities including serving upon the appellant a notice under Section 50 NDPS Act, and searched the appellant's bag. A polythene tied with *sutli* was discovered from the appellant's bag, from which a substance later found to be *doda posht* was recovered. On weighing the same, its weight was found to be 10.50 kgs. Two samples of 250 grams each were drawn and the same, as well as the rest of the contraband, was converted into *pullandas* and sealed. The case property was sent to the FSL, and pending result of the same, the chargesheet under Section 15 NDPS Act was filed in Court. The FSL result confirmed that the recovered substance was *doda posht*.

4. The prosecution examined 8 witnesses in support of its case. The police officials who were part of the raiding party, i.e., Ct. *Dharmender*, SI *Dinesh Kumar*, and HC *Naushad Haider*, were examined as PW-2, PW-3, and PW-5 respectively. They corroborated each other on all material particulars regarding the constitution of the raiding party, the recovery of



10.5 kgs of *doda posht* from the possession of the appellant, the drawing of samples, and the preparation of sealed *pullandas* as well as seizure memos. Their testimonies remained unshaken during cross-examination and no material contradictions were elicited to discredit the prosecution version. The then SHO of P.S. Geeta Colony, Insp. *Vivek Tyagi* (PW-4), also deposed in accordance with the prosecution version of events and duly proved compliance with procedural safeguards. SI *Krishanveer* (PW-7) is the 2nd I.O. of the case, who reached the spot and interrogated as well as arrested the appellant, conducted his personal search, prepared the site plan, and prepared the report under Section 57 NDPS Act. He also deposed about sending the case property to the FSL and collecting the results of the forensic examination. The remaining witnesses were largely formal in nature.

5. The Trial Court held the mutually corroborative testimonies of the concerned police witnesses to be credible and reliable. The minor variations arising therein, such as regarding the timing of the appellant's arrest and the distance of the concerned spot from the P.S., were held to be natural, and as not affecting the substratum of the prosecution case. The FSL report (Ex. PW-7/D) conclusively established that the substance recovered from the possession of the appellant was *doda posht*. On a careful examination of the evidence on record, this Court concurs with the findings of the Trial Court and finds no grounds to interfere with the impugned judgment. Consequently, the conviction of the appellant under Sections 15 NDPS Act is upheld.

6. The appellant, duly represented by counsel, is present in person. Learned counsel for the appellant submits, on instructions, that the appellant



is remorseful and, being fully aware of the consequences, does not wish to press the present appeal on merits. Rather, having undergone over half of his sentence, the appellant prays that he be released on the period of custody already undergone by him. The appellant further prays that, in view of his poor economic condition, the fine amount imposed upon him be reduced; and he undertakes to pay the reduced fine amount within a period of 6 weeks.

7. Learned APP for the State points out that the appellant is stated to be a first-time offender in the impugned order on sentence, and that his latest nominal roll on record dated 15.12.2025 also reflects no other criminal involvements.

8. The law regarding release of convicts who have undergone more than half of their sentence was laid down by the Supreme Court in Sonadhar Vs. State of Chhattisgarh¹, and the relevant portion of the same is extracted hereinunder:

“28. We thus issue the following directions:

- a) A similar exercise be undertaken by the High Court Legal Services Committee of different High Courts so that convicts represented by legal aid Advocates do not suffer due to delay in hearing of the appeals. NALSA will circulate this order to the concerned authority and monitor the exercise to be carried on.*
- b) The Delhi High Court Legal Services Committee would take up the cases of those convicts who have undergone more than half the sentence in case of fixed term sentences and examine the feasibility of filing bail applications before the High Court, while in case of ‘life sentence’ cases, such an exercise may be undertaken where eight years of actual custody has been undergone.*
- c) We are of the view that in fixed term sentence cases, an endeavor be made, at least as a pilot project, in these two High Courts to get in touch with the convicts and find out whether they are willing to*

¹ 2021 SCC OnLine SC 3683



accept their infractions and agree to disposal of the appeals on the basis of sentence undergone.

- d) *A similar exercise can be undertaken even in respect of 'life sentence' cases where the sentenced persons are entitled to remission of the remaining sentence i.e., whether they would still like to contest the appeals or the remission of sentence would be acceptable to such of the convicts."*

9. It is stated that the appellant, an old man about 55 years of age, is a labourer by trade and belongs to the poorest strata of society. He is stated to be responsible for taking care of his wife as well as their two children. Further, his latest nominal roll reflects that he has already undergone a substantial period of incarceration, with his conduct in jail being reported as satisfactory.

10. Having regard to the fact that the incident pertains to the year 2013, the facts and law as discussed above, and in view of the aforementioned mitigating circumstances, the appellant's prayer for release on the period of custody already undergone by him is accepted. The conviction of the appellant under Sections 15 NDPS Act is upheld; however, the substantive sentence awarded to him is modified to the period already undergone by him. The sentence in default of payment of fine, however, is maintained, subject to payment of fine as modified hereinbelow.

11. Considering the modest means of the appellant and the totality of circumstances, the fine imposed upon the appellant by the Trial Court is reduced to Rs.5,000/-, to be paid within 6 weeks as undertaken. Upon payment of the requisite amount, the appellant shall furnish a receipt of the same to the concerned I.O.

12. In the event of non-payment of fine, the appellant shall undergo the sentence in default of payment of fine as imposed by the Trial Court.



13. The present appeal is partly allowed in the above terms.
14. A copy of this order be communicated to the Trial Court and the concerned Jail Superintendent.

MANOJ KUMAR OHRI, J

DECEMBER 19, 2025/nb