

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRA-S-1245-SB of 2004
Date of Decision: 19.08.2015

Kaka Singh

....Appellant

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present: Mr.P.S.Sekhon, Advocate
for the appellant.

Mr.Deepak Garg, AAG, Punjab.

MAHAVIR S. CHAUHAN , J. (ORAL)

Appellant-Kaka Singh was tried under Section 15 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (for short, 'the Act') in FIR No.240 dated 21.08.2001 for having possessed poppy husk weighing 7 kgs without any permit or licence when he was apprehended by the Investigating Officer on 21.08.2001. After the appellant refused to plead guilty, prosecution examined ASI Bhupinder Singh-PW1, Inspector Joginder Singh-PW2, HC Gurnam Singh-PW3, Mohd. Nazir-PW4, Constable Ramesh Kumar-PW5 and HC Narinder Singh-PW6 to prove the charge against him. All the incriminating circumstances appearing in the evidence of the prosecution were put to the appellant in his statement recorded under Section 313 of the Code of Criminal Procedure, 1973 (for

short, '-Cr.P.C.'). The appellant denied all the circumstances and reiterated plea of his innocence and false implication but did not lead any evidence in defence.

Learned Judge, Special Court, Sangrur (for short, '-the trial Court') by appreciating the evidence and hearing the parties, came to the conclusion that prosecution was able to prove its case beyond reasonable doubt and, accordingly, vide judgment of conviction and order of sentence dated May 28, 2004 convicted and sentenced the appellant to rigorous imprisonment for one year with fine amounting to Rs.2,000/- and in default of payment of fine to further rigorous imprisonment for three months under Section 15 of the Act.

To challenge the judgment of conviction and order of sentence dated 28.05.2004, appellant has brought this appeal.

I have heard learned counsel for the parties.

Learned counsel for the appellant though has not been able to point out any illegality in the judgment of conviction but has come out with the plea that the appellant has been undergoing the agony of a tough investigation, protracted trial and consequential proceedings since 2001 and is the only bread winner of his family and, as such, deserves leniency in the matter of sentence.

As per custody certificate filed on behalf of the State, the appellant has already spent 4 months and 7 days in custody.

In view of the above, while maintaining the judgment of

conviction, order on quantum of sentence is modified and substantive sentence awarded to the appellant is restricted to the period already spent by him in custody. Sentence as regards fine and default clause are maintained.

With the above modification in the order on quantum of sentence, the appeal is hereby dismissed.

19.08.2015

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(Mahavir S. Chauhan)
Judge