

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No. S-152-SB of 2004
Date of Decision : February 04, 2015

Manjit Kaur

.....Appellant

VERSUS

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. K.S. Brar, Advocate

Mr. R.S. Randhawa, Additional A.G., Punjab.

T.P.S. MANN, J. (Oral)

The appellant was tried for an offence under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') for being found in possession of 5 kgs. of poppy husk. Vide judgment and order dated 27.11.2003, the Judge, Special Court, Faridkot convicted him for the aforementioned offence and sentenced him to undergo rigorous imprisonment for ten years and to pay a fine of Rs.1,00,000/- and in default of payment of fine, to undergo rigorous imprisonment for two years. Hence, the present appeal.

The case of the prosecution, in nutshell, is that on 9.12.2001 at about 12.00 noon, the police party headed by ASI Jaswinder Pal was present near the canal minor in the area of village Panj Grain Kalan, where it noticed the appellant coming on foot from the opposite side, who was holding a

bag in her right hand. On seeing the police party, she threw the bag on the ground. ASI Jaswinder Pal became suspicious and apprehended her. She was apprised of her right to be searched in the presence of a gazetted officer or a Magistrate. She, however, agreed to be searched by ASI Jaswinder Pal himself. The search of the bag led to recovery of 5 kgs. of poppy husk, out of which 250 grams was taken out as sample. As the appellant could not produce any licence or permit for keeping the contraband, she was found to have committed the aforementioned offence. Accordingly, she was arrested and upon completion of the investigation, challan was presented against her. The trial, in which the prosecution examined PW1 HC Baljit Siongh, PW2 Ram Chand, PW3 ASI Jaswinder Pal, PW4 Constable Duli Chand, PW5 HC Amarjit Singh, PW6 HC Kaur Singh and PW7 SI Mukhtiar Singh culminated in the conviction of the appellant, as mentioned above.

Learned counsel for the appellant has not challenged the impugned judgment of conviction passed by the trial Court. However, he has submitted that the appellant is a poor widow. She has been facing the agony of criminal prosecution for the last more than 13 years. She is not involved in any other case. The recovery effected from the appellant was mere 5 kgs. of poppy husk, which did not fall within the category of commercial quantity. She has already

undergone a period of fifteen months. Prayer has accordingly been made for taking a lenient view in the matter of sentence of imprisonment and fine.

Learned State counsel has opposed the prayer made on behalf of the appellant by submitting that the appellant was found dealing in narcotics and such like activities deserve to be curbed with heavy hands.

As per the record, the appellant was initially arrested on 9.12.2001 and was, thereafter, granted the concession of bail on 8.1.2002. She was again taken into custody on 27.11.2003 upon her conviction and sentence by the trial Court and, thereafter her sentence of imprisonment was suspended in appeal on 28.1.2005. In all, the appellant has already undergone an actual period of more than one year and three months.

Taking into consideration the totality of the circumstances, this Court is of the considered view that no useful purpose would be served by sending the appellant behind the bars, once again, to undergo the remaining sentence of imprisonment imposed upon her. Ends of justice would be amply met if her substantive sentence of imprisonment is reduced to the one already undergone by her.

Resultantly, the conviction of the appellant under Section 15 of the NDPS Act is upheld. Her sentence of imprisonment for ten years is reduced to that already undergone by her. The amount of fine of Rs.1,00,000/- is reduced to Rs.20,000/- and in default of its payment, the appellant shall undergo rigorous imprisonment for two years.

The appeal is, accordingly, disposed of.

February 04, 2015
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(T.P.S. MANN)
JUDGE