

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

Crl. Appeal S-172-SB of 2004
Date of Decision : May 05, 2015

Jarnail Singh

.....Appellant

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. S.S.Sodhi, Advocate

Mr. Praveen Bhadu, Asstt. A.G. Haryana

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

The appellant was tried for committing the offence punishable under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 on the allegations that on 1.5.1999 when he was apprehended by a police party headed by SI Bir Bhan, he was found to be carrying a bag which contained 7.5 kgs of poppy husk. Vide judgment and order dated 13.1.2004, the Presiding Officer, Special Court, Kurukshetra convicted him for the aforementioned offence and sentenced him to undergo rigorous imprisonment for one year and to pay a fine of Rs. 10,000/- and in default of payment of fine, to further undergo imprisonment for one month.

Having heard learned counsel for the parties and on going through the record, this Court finds that the prosecution had led cogent and convincing evidence to establish that the appellant

was carrying 7.5 kgs of poppy husk when he was apprehended by a police party headed by SI Bir Bhan. From the report Ex. PE of FSL, it is made out that the sample of the contraband was found to contain Meconic acid. The plea of the appellant that he was falsely implicated is nothing but an after thought. The testimonies of DW1 Nar Singh, who happened to be the Sarpanch of the village of the appellant and DW2 Malook Singh cannot be relied upon to hold that the appellant was falsely implicated in the case. In view of the same, no case is made out for any interference in the impugned judgment of conviction passed by the trial Court.

When the appellant was examined by the trial Court under Section 235 Cr.P.C., he had pleaded that he was a poor person and had two children. One was 22 years' old daughter while the other was a son aged 20 years. His mother was stated to be an old lady while his wife shown to be suffering from cancer.

The appellant is facing the agony of criminal prosecution for the last more than 16 years. Out of the sentence of one year imposed upon him, he has already undergone a period of about two months as after being arrested on 1.5.1999, he was granted the concession of bail on 25.6.1999 and subsequent thereto, he had furnished the bail bonds on 29.6.1999.

Taking into consideration the totality of the circumstances, this Court is of the considered view that the appellant, who is presently on bail for the last more than eleven years, need not be

sent behind the bars, once again, to undergo the remaining sentence of imprisonment imposed upon him. Ends of justice would be amply met if the substantive sentence of imprisonment is reduced to the one already undergone by him. At the same time, the sentence of fine imposed upon the appellant can be suitably enhanced.

Resultantly, the conviction of the appellant under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him. However, the sentence of fine is enhanced from Rs. 10,000/- to Rs. 20,000/- and in default of payment of the same, the appellant shall undergo imprisonment for two months.

The appeal is, accordingly, disposed of.

**(T.P.S. MANN)
JUDGE**

May 05, 2015
ajay-1