

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

CRA-S-489-SB-2004 (O&M)

Date of Decision:- 09.12.2015

Giano

.....Appellant

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

- Whether Reporters of local papers may be allowed to see the judgment?
- To be referred to the Reporters or not?
- Whether the judgment should be reported in the Digest?

Present: Mr.Gurbir Singh, Advocate for the appellant.

Mr.Vaibhav Sharma, DAG, Punjab.

P.B. BAJANTHRI, J.(Oral)

The petitioner was tried under Section 15 of the NDPS Act, 1985. Brief facts of the case is that on 14.04.2002 ASI Mohinder Singh accompanied by ASI Gurdev Singh, HC Joginder Singh and other police officials had been proceeding towards bridge canal khanpur from the side of village Rurka, Butari and Bhutta in a Government vehicle in connection with patrolling and when the police party reached near the turning of bridge of the canal, Abohar at about 12.30 p.m. That two ladies were noticed coming under the cover of the trees carrying bags on their heads. The said ladies were accompanied by two boys aged 13 years and 7 years respectively. The two ladies, on seeing the police party tried to turn on their right hand side. They were given a call to stop. One of them was apprehended by ASI Mohinder Singh and other by ASI Gurdev Singh. The lady apprehended by ASI Mohinder Singh disclosed her name as Gino Bai

wife of Surjit Singh son of Kartar Singh, Rai Sikh of village Chhanna Bagela, Tehsil Nakodar. ASI Mohinder Singh asked the accused in writing that he suspected the bag carried by her having contained some intoxicating material and that he had to conduct search of the same and gave her the option that if she so desired search would be conducted in the presence of a gazetted officer or Magistrate. The accused did not desire search to be conducted by any gazetted officer or Magistrate and gave consent in favour of ASI Mohinder Singh. On conducting search of the bg, ASI Mohinder Singh found the same having contained poppy husk. The poppy husk was poured in a chadar. Out of the recovered poppy husk, two samples of 250 grams each were taken out and the bulk of the poppy husk, on weighment, was found to be 14 kgs. 500 grams which was refilled into the same very polythene bag. Different parcels of the samples and of the bulk were prepared and sealed with the seal bearing letters M.S. ASI Mohinder Singh also prepared specimen impressions of the seals and the case property was got into possession vide recovery memo Ex.PD. ASI Mohinder Singh got formal FIR Ex.PF registered against the accused/appellant by sending ruqa Ex.PE to the police station. FIR was filed on 14.04.2002 under Section 15 and 61 of NDPS Act, 1985 at Police Station Dehlon. The petitioner was tried by Special Court, Ludhiana.

On 19.02.2004 the Additional Special Court, Ludhiana convicted the appellant and sentenced to undergo rigorous imprisonment for a period of 4 months and to make the payment of Rs.1000/- by way of fine and in default of the payment of same to further undergo rigorous imprisonment for a period of one month. Learned State counsel has filed custody certificate dated 03.11.2015.

I have perused the custody certificate. The appellant has

undergone total actual period of 3 months and 21 days and 8 days of remission earned by her. The total custody including remission is 3 months and 29 days. The matter relates to the year 2004. We are in the year 2015. Therefore, the sentence is restricted to the period she has already undergone. It was also noted that she has not involved in any other criminal proceedings.

Accordingly, the appeal is disposed of.

09.12.2015
pooja saini

(P.B.BAJANTHRI)
JUDGE