

CRA-S-1031-SB-2015 (O & M)

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

CRA-S-1031-SB-2015 (O & M)
Date of Decision: 09.04.2015

Gurdial Singh @ Bittu

... Appellant (s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

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

Present: Mr. Veneet Sharma, Advocate,
for the appellant.

Mr. K.S.Sidhu, DAG, Punjab.

Paramjeet Singh, J.(Oral)

Custody certificate, filed in Court today, is taken on record.

Present criminal appeal has been preferred by the appellant against judgment of conviction dated 24.02.2015 and order of sentence dated 26.02.2015 passed by learned Judge, Special Court, Amritsar whereby appellant has been convicted for the commission of offence punishable under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, 'NDPS Act') and Section 61(i) (a) of the Punjab Excise Act, 1914 (in short, 'Excise Act') and sentenced as under:

CRA-S-1031-SB-2015 (O & M)

<i>Sr. No.</i>	<i>Under Section</i>	<i>Sentence</i>
1	21 of NDPS Act	Rigorous imprisonment for a period of six months and fine of ₹ 10,000/-, in default, to further undergo rigorous imprisonment for a period of one month
2	61(i) (a) of Excise Act	Rigorous imprisonment for a period of six months and to pay a fine of ₹ 10,000/-, in default, to further undergo rigorous imprisonment for a period of one month.

Both the sentences have been ordered to run concurrently.

I need not dilate upon the facts of this case in detail as the same have already been recapitulated in the judgment of the learned Court below and in view of the ultimate prayer of the appellant seeking reduction in sentence.

I have heard the learned counsel for the parties and perused the record.

Learned counsel for the appellant states that he is not pressing this appeal on merit and is not challenging the conviction on merit. He is only aggrieved against the sentence part. Learned counsel for the appellant prays that sentence of the appellant be suitably reduced as this criminal trial is hanging on his head like Damocle's sword for approximately three years and it should be a sufficient mitigating circumstance to treat him leniently. Learned counsel for the appellant has further submitted that FIR relates to the year 2012 and since then a period of approximately three years has elapsed. The appellant has suffered the ordeal of trial for this long period. Learned counsel for the appellant submits that appellant has already undergone imprisonment for

CRA-S-1031-SB-2015 (O & M)

two months and sixteen days.

In view of the arguments advanced by learned counsel for the appellant, this Court is of the view that no useful purpose will be served by keeping the appellant behind the bars as the appellant had already faced ordeal for approximately three years. It is a fit case wherein sentence awarded to the appellant can be reduced to already undergone. Ordered accordingly. It is, however, made clear that the appellant, who is stated to be in judicial custody, shall be released forthwith on deposit of fine, as imposed by the trial Court and if not required in any other case. The period of sentence will stand reduced to undergone upto the actual release, as aforesaid. The impugned order of sentence and conviction, including default clause, stands affirmed with aforesaid modification. It goes without saying that if the amount of fine is not deposited, the appellant will serve the remaining part of sentence.

With the observations made above, present appeal is disposed of.

09.04.2015.

parveen kumar

(Paramjeet Singh)
Judge