

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

CRA-S No.1372-SB of 2015 (O&M)

Decided on: 28.07.2015

Rinku and another . . . Petitioners

Versus

State of Punjab . . . Respondents

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. Sandeep Chopra, Advocate
for the petitioners.

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

PARAMJEET SINGH, J. (Oral)

Custody certificates of appellants, filed in Court today, are taken on record.

Present criminal appeal has been preferred by the appellants against judgment of conviction and order of sentence dated 11.03.2015 passed by the Judge Special Court, Patiala, whereby appellants have been convicted for the offence punishable under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and sentenced to undergo

rigorous imprisonment for a period of three years and to pay a fine of ₹5000/- each, in default, to further undergo rigorous imprisonment for a period of two months each.

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 appellants 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. Recovery of 200 grams of smack effected from appellant No.1- Rinku and 150 grams of smack effected from appellant No.2-Barinder Singh falls within the category of non-commercial quantity. Learned counsel for the appellants prays that sentence of the appellants be suitably reduced as this criminal trial is hanging on their head like Damocle's sword for more than 2-1/2 years and it should be a sufficient mitigating circumstance to treat them leniently. Learned counsel for the appellants has further submitted that FIR relates to the year 2012 and since then a period of 2-1/2 years has elapsed. The appellant are first offenders. The appellants have suffered the ordeal of trial for this long period. Learned counsel for the appellants submits that appellants have already undergone imprisonment for more than 2-1/2.

Learned counsel for the State vehemently opposes the reduction in sentence.

I have considered the contentions raised by learned counsel for the parties.

Ancient penological approach was custodial measure to curb crime. But in modern days, penological approach should be balanced keeping in view the needs of the community and interests of the accused: such as compensation to the victims, release on admonition, probation etc. These are being adopted to reform the criminal convicts. The object of criminal justice system is to reform the offenders and to make them see and follow the right path. Otherwise also jails are often overcrowded.

In view of the arguments advanced by learned counsel for the appellant, which have been noted above, this Court is of the view that since the recovery is only 200 grams and 150 grams of smack from the appellants respectively, which is non-commercial quantity, no useful purpose will be served by keeping the appellants behind the bars as the appellants had already faced ordeal for more than 2-½. It is a fit case wherein sentence awarded to the appellants can be reduced to already undergone. Ordered accordingly. The impugned judgment of sentence and order of conviction including default clause stand affirmed with aforesaid modification. The appellants, who are stated to be in custody, be released forthwith, if not required in any other case. However, if the amount of fine is not paid, the appellants will have to undergo

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default imprisonment for a period of two months each as awarded by the trial Court.

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

[PARAMJEET SINGH]
JUDGE

28.07.2015
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