

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

Crl. Appeal No.S-162-SB of 2015 (O&M)

Date of decision : 29.01.2015

Amarjit Singh @ Babbu

...Appellant

versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Parminder Singh Sekhon, Advocate,
for the appellant.

Mr. Gurveer Sidhu, AAG, Punjab.

RITU BAHRI , J.

This appeal has been filed against the judgment of conviction and order of sentence dated 05.01.2015 passed by the Special Judge, Mansa, whereby the accused-appellant has been sentenced to under rigorous imprisonment for a period of one year and to pay a fine of ₹5000/- for commission of an offence punishable under Section 18 of Narcotic Drugs & Psychotropic Substances Act (for brevity 'the NDPS Act').

Brief facts of the case are that on 14.02.2012, SI Jagdish Kumar along with other police officials was going from City Mansa to Moosa Octroi in connection with patrolling duty. When they reached near Dera, Ram Sra, an Alto car was seen coming from the opposite side. On seeing the police party, driver of the car became perplexed and tried to turn back, but was apprehended with the help of other

police officials. He disclosed his name as Amarjit Singh alias Babbu (appellant). A polythene bag, containing opium, was found lying in front of the seat of driver, out of which, one samples of 10 grams was separated and converted into a parcel. The remaining opium, on weighment, came to be 990 grams. The same was also converted into another parcel. Both the parcels were sealed by SI Jagdish Kumar with his seals bearing impressions 'JK' and taken into police possession vide separate recovery memos. After completion of necessary formalities, challan was prepared and presented before the Court.

After presentation of the challan, charge under Section 18 of the NDPS Act was framed against the accused-appellant, to which, he pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined as many as five witnesses and thereafter, the evidence of the prosecution was closed.

Statement of accused-appellant under Section 313 Cr.P.C., was recorded, wherein entire incriminating evidence was put to him, however, he denied the same and pleaded false implication.

The trial Court after going through the entire evidence led by the prosecution, convicted and sentenced the accused-appellant in the aforesaid terms.

Learned counsel for the appellant, at the outset, does not challenge the judgment of conviction on merits and restricts his prayer to the quantum of sentence.

Recovery of 1 Kg. of opium was effected from the

appellant, which is a 'non-commercial' quantity. As per custody certificate, the appellant has undergone 1 month and 26 days in custody and no other case is pending against him under the NDPS Act.

In these circumstances, this Court is of the opinion that the judgment passed by the trial Court does not require any interference and the same is, accordingly, upheld. However, a lenient view can be taken on the quantum of sentence of the appellant .

Resultantly, the present appeal is dismissed. However, keeping in view the fact that the appellant is facing the agony of a criminal trial for the last about 3 years and recovery is less than the 'commercial quantity', the sentence of imprisonment awarded to the appellant is reduced to the period already undergone. However, amount of fine is enhanced from Rs.5000/- to Rs.10,000/-. Subject to deposit of fine, the appellant be released to the satisfaction of CJM/Duty Magistrate, Mansa.

With the above modification/direction, the present appeal stands disposed of.

(RITU BAHRI)
JUDGE

29.01.2015
ajp