

CRA-S-1810-SB-2015

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

CRA-S-1810-SB-2015 (O & M)

Date of Decision: 29.05.2015

Gurpreet Singh

... Appellant (s)

Versus

State of Haryana

... 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. R.S.Mamli, Advocate,
for the appellant.

Mr. Naveen Sheoran, DAG, Haryana.

Paramjeet Singh, J. (Oral)

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

Present criminal appeal has been preferred by the appellant against judgment of conviction dated 23.03.2015 and order of sentence dated 24.03.2015 passed by the Additional Sessions Judge, Fatehabad whereby appellant has been convicted for the offence punishable under Section 15(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and sentenced to undergo rigorous imprisonment for a period of one year and six months and to pay a fine of ₹10,000/-, in default, to further undergo rigorous imprisonment for two months.

I need not dilate upon the facts of this case in detail as the

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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. Recovery of 17 kgs of poppy husk effected from the appellant falls within the category of non-commercial quantity. 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 more than one year 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 2014 and since then a period of more than one year has elapsed. The appellant is a first offender. 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 more than five and half months.

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

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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 17 kgs of poppy husk which is non-commercial quantity, no useful purpose will be served by keeping the appellant behind the bars as the appellant had already faced ordeal for more than one year. It is a fit case wherein sentence awarded to the appellant 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 appellant, who is 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 appellant will have to undergo default imprisonment for a period of two months as awarded by the trial Court.

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

29.05.2015
parveen kumar

(Paramjeet Singh)
Judge