

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

**CRA No.S-3508-SB of 2013
Date of decision: 20.05.2015**

Khajan Chand @ Khan Chand

..... Appellant

Versus

The State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN 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. Rahul Vats, Advocate for the appellant.

Mr. Anmol Malik, Assistant Advocate General for
respondent-State of Haryana.

DARSHAN SINGH, J.

The present appeal has been preferred against the judgment of conviction dated 10.10.2013, passed by learned Judge, Special Court, Fatehabad, vide which appellant Khajan Chand alias Khan Chand was held guilty and convicted for the offence punishable under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (here-in-after called the Act) and the order of sentence dated 11.10.2013, vide which he was sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.20,000/- and in default of payment of fine,

he was ordered to undergo rigorous imprisonment for a period of six months.

2- As per the prosecution allegations, on 11.04.2010 the police party headed by Sub Inspector Chand Singh was present at 'T' point Bharpoor turn, Fatehabad Road, Ratia in connection with patrolling. In the meanwhile, the present accused having scooter bearing registration No.PB-13H-4376 make Bajaj Chetak came from the side of Fatehabad and on seeing the police party, he tried to turn. He was apprehended in that process. The search was conducted as per law and the appellant was found in possession of 20 Kgs. poppy straw lying in a bag on the scooter. The samples were separated and the contraband along with the scooter was taken into possession. The Investigating Officer sent Ruqqa Ex.P9 to the Police Station. On the basis of which, the formal FIR Ex.P12 was registered. The Investigating Officer also prepared the rough site plan of the place of occurrence. The accused was arrested. The accused along with the contraband was also produced before the Inspector Ajaib Singh, SHO, Police Station, Ratia who verified the facts of the case. On the next day, he was interrogated and suffered the disclosure statement Ex.P6. The case property along with accused was produced before the learned Illaqa Magistrate vide application Ex.P18 along with inventory form Ex.P19. The Magistrate passed the requisite order certifying the inventory. The appellant also pointed out the place from where he had purchased the poppy straw. Sample parcel was sent to the Forensic Science Laboratory, Madhuban for examination. On

completion of the formalities of the investigation, the report under Section 173 Cr.P.C. was presented in the Court.

3- The accused-appellant was charge-sheeted for the offence punishable under Section 15 of the Act vide order dated 13.1.2011, to which the appellant pleaded not guilty and claimed trial.

4- In order to substantiate its case, the prosecution examined as many as 12 witnesses.

5- When examined under Section 313 Cr.P.C., the appellant pleaded that he was apprehended from his house by the police in presence of Prem Chand, Member Panchayat and his wife Papi Bai. No contraband was recovered from his possession. But the appellant has not adduced any evidence in his defence.

6- On appreciating the evidence on record and contentions raised by learned counsel for the parties, the learned trial Court held guilty and convicted the appellant for the offence punishable under Section 15 of the Act and he was ordered to undergo the sentence as mentioned in the upper part of the judgment.

7- I have heard Mr. Rahul Vats, Advocate, learned counsel for the appellant, Mr. Anmol Malik, learned Assistant Advocate General for the State of Haryana and have meticulously examined the record of the case.

8- Initiating the arguments, learned counsel for the appellant contended that he does not challenge the conviction. He only wants to pursue the present appeal on the quantum of sentence. Learned counsel

for the appellant pleaded that the appellant has already undergone one year and ten months in jail out of the sentence of two years. He contended that the sentence is almost complete. The appellant will deposit the fine imposed by the learned trial Court. He also pleaded that the appellant is a poor person having the responsibility to look after his family.

9- On the other hand learned State counsel pleaded that the sentence awarded to the appellant is just and appropriate. He is not entitled for any leniency in the matter of sentence.

10- I have duly considered the aforesaid contentions.

11- As per the prosecution allegations, 20 Kgs. poppy straw has been recovered from the possession of the appellant. PW12 Inspector Chand Singh, the Investigating Officer of the case and PW3 EASI Mahender Singh, the witness of the recovery have fully supported the prosecution version. They have consistently deposed about the recovery of 20 Kgs. poppy straw from the possession of the accused. Their statements are fully corroborated from the statements of PW7 Inspector Ajaib Singh, the then SHO, Police Station Ratia, before whom the case property along with the witnesses were produced. Thus, the conviction of the appellant is well founded.

12- Learned counsel for the appellant at the very outset has stated that he does not challenge the conviction and the present appeal is being pursued only on the quantum of sentence. The appellant was sentenced to undergo rigorous imprisonment for a period of two years

and to pay a fine of Rs.20,000/- and in default of payment of fine, he was further ordered to undergo rigorous imprisonment for a period of six months. The custody certificate dated 20.01.2015 shows that he had already undergone one year, five months and three days as on 20.01.2015. In this manner, he has already undergone one year, nine months and three days as on today without remission and he has undergone one year, ten months and three days with remission.

13- In his statement on the quantum of sentence, the appellant has stated before the trial Court that he has three children. His daughter is student of 10+1. He is a poor man and there is no other earning member in the family. The appellant has already undergone one year, ten months and three days with remission. So, he has already undergone the major portion of his sentence. If the sentence of the appellant is reduced to the sentence already undergone that will suffice the ends of justice.

14- Thus, keeping in view my aforesaid discussion, the conviction of the appellant as recorded by the learned trial Court is hereby maintained. However, the sentence awarded to the appellant is hereby reduced to the period already undergone by him. However, the sentence of fine and the default clause will remain intact. With this modification in the order of sentence, the present appeal stands dismissed.

Dated: 20.05.2015.

sunil yadav

**(DARSHAN SINGH)
JUDGE**