

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Appeal No.S-2386-SB of 2015 (O&M)
Date of Decision: August 17, 2015

Balinder Kumar

...Appellant

VERSUS

Union Territory, Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Raj Kishore, Advocate
for the appellant.

Mr.Anil Kumar Lamdharia, Addl. Public Prosecutor,
for the respondent-U.T. Chandigarh.

INDERJIT SINGH, J.

The present appeal has been filed by the appellant against the judgment of conviction dated 17.04.2015 and order of sentence dated 18.04.2015, passed by the learned Judge, Special Court, Chandigarh, whereby, he was held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of ₹5,000/- under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month.

Notice of motion was issued and learned State counsel appeared and contested the appeal.

Lower Court record was also summoned.

At the time of arguments, learned counsel for the appellant has not argued on merit and only prayed for taking lenient view in the sentence and argued only on quantum of sentence.

I have heard learned counsel for the appellant as well as learned State counsel and have gone through the record.

The perusal of the record shows that as per prosecution version, when the police party headed by ASI Kehar Singh, while on patrolling, reached near Prachin Shiv Mandir, Mauli Jagran, at that time, accused was seen coming from the side of railway station carrying a polythene bag in his hand. On seeing the police party, accused turned back and started moving fast. On suspicion, accused was apprehended. On search, as per law, 2 kgs. of ganja was recovered. Two samples each weighing 50 grams were taken and sealed parcels were prepared. Sealed parcels were taken into police custody. Accused was arrested. FIR was registered. Necessary investigation was conducted.

The prosecution examined PW-1 Head Constable Sakattar Singh, with whom the case property was deposited; PW-2 Head Constable Yash Pal, who prepared the scaled site plan; PW-3 Constable Rajesh, recovery witness; PW-4 ASI Gurmeet Singh, who partially investigated the case; PW-5 ASI Kehar Singh, who was the Investigating Officer at the first instance and PW-6 Inspector Charanjit Singh, who verified the facts and the case property and before whom the accused along with case property were produced.

The learned trial Court, after appreciation of the evidence, convicted and sentenced the accused-appellants, as stated above.

From the record, I find that nothing has been pointed out on merit by learned counsel for the appellant. The findings given by learned Judge, Special Court, Chandigarh are as per evidence and law. The evidence has been appreciated in right perspective, therefore, the accused-appellant has been correctly convicted by learned Judge, Special Court, Chandigarh.

As regarding the quantum, it has been brought to my notice that accused has already undergone major part of the sentence i.e. he has already undergone more than 5 months out of the total sentence of six months.

Therefore, keeping in view the facts and circumstances of the case, nature of the offence and the fact that accused-appellant has almost completed his sentence, the present appeal is partly allowed. The sentence imposed upon the appellant is reduced to the sentence already undergone by him. Appellant Balinder Kumar be set at liberty forthwith, if his custody is not required in connection with any other case, subject to payment of fine, if already not deposited.

August 17, 2015
Vgulati

(INDERJIT SINGH)
JUDGE