

CRA-S-2776-SB of 2015

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

CRA-S-2776-SB of 2015 (O&M)

Date of decision: 21.07.2015

Pawan Kumar alias Billa

....Appellant

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: - Mr. Kushagra Mahajan, Advocate, for the appellant.

Mr. S.S. Chandumajra, DAG, Punjab.

PARAMJEET SINGH, J. (ORAL)

With the consent of the learned counsel for the parties, this appeal is taken up for final disposal today.

Challenge in this appeal is to judgment of conviction and order of sentence dated 28.05.2015 passed by learned Judge, Special Court, Amritsar, whereby appellant has been held guilty under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and sentenced to undergo rigorous imprisonment for two years and to pay fine of ₹ 1,000/-, in default of payment of fine to further undergo imprisonment for two months.

I need not dilate upon the facts of this case in detail as the same have already been recapitulated in the judgment of the Court below and in view of the ultimate prayer of the appellant seeking reduction in sentence.

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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. However, he prays that the sentence of the appellant be suitably reduced as this criminal trial is hanging on his head like damocle's sword for about three years and it should be a sufficient mitigating circumstance to treat him leniently. Learned counsel for the appellant has further submitted that the FIR pertains to the year 2012 and since then a period of about three years has elapsed. The appellant has suffered the ordeal for long period and now he is a reformed person. As per custody certificate, appellant has already undergone sentence for 10 months and 13 days.

Learned counsel for the State has produced custody certificate dated 21.07.2015 in Court, which is taken on record and vehemently opposed the reduction in sentence.

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.

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In view of the arguments advanced by learned counsel for the appellant, which have been noted above, this Court is of the view that no useful purpose will be served by keeping the appellant behind the bars further as the appellant faced ordeal for a sufficient long period. It is a fit case wherein sentence awarded to the appellant can be reduced to the period upto the date of his actual release from jail. Ordered accordingly. The impugned judgment of conviction and order of sentence, including default clause, stand affirmed except for the aforesaid modification in sentence. It goes without saying that if the amount of fine is not deposited, the appellant will serve the remaining part of sentence.

With the observations made above, the present appeal is disposed of with a direction that the appellant be released immediately, if not required in any other case and his sentence shall be treated reduced upto the date of his actual release, as aforesaid.

(Paramjeet Singh)
Judge

July 21, 2015
R.S.