

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

Crl. Appeal No.S-3310-SB of 2015 (O&M)

Date of Decision: 07.10.2015

Union Territory of Chandigarh

....Appellant

Versus

Kamlesh Kumar

....Respondent

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see the judgment ? (Yes/No)**
- 2. To be referred to reporters or not ? (Yes/No)**
- 3. Whether the judgment should be reported in the Digest ? (Yes/No)**

Present:- Mr. Amarjit Singh Virk, Advocate
for the appellant.

DAYA CHAUDHARY, J.

This appeal has been filed by the appellant-Union Territory of Chandigarh for enhancement of sentence of the respondent as he has been convicted by the trial Court vide judgment dated 16.03.2015 for keeping in possession three kilograms of Ganja as sentence imposed upon him is inadequate as he has been sentenced to undergo rigorous imprisonment for a period of three months with fine of ₹ 2,000/-.

There is delay of 22 days in filing of the present appeal.

For the reasons mentioned in the application, the delay of 22 days in filing of the present appeal is condoned and the application is accordingly disposed of.

The respondent was convicted by the trial Court vide its judgment dated 16.03.2015 under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (here-in-after referred to as the 'NDPS Act').

Learned counsel for the appellant submits that by taking liberal attitude, less sentence has been awarded to the respondent, whereas, the Court should not have been too sympathetic in awarding sentence for the offence punishable under Section 20 of the NDPS Act.

Heard the arguments of learned counsel for the appellant and have also perused the judgment of the trial Court.

The respondent faced trial as he was found to be in possession of 3 Kilograms of Ganja. However, after presentation of challan, the charges were also framed under Section 20 of the NDPS Act. After appreciation of evidence of prosecution as well as defence witnesses, the trial Court convicted the accused respondent vide aforesaid judgment and by considering certain factors that the appellant is not a previous convict and he has a large family to support as no other member is there in his family except him to look after his wife and children, the sentence for a period of three months with fine of ₹ 2,000/- was awarded to the respondent. Moreover, for the offence under Section 20 of the NDPS Act and no minimum sentence has been prescribed in case of non-commercial, which is small. Nothing has been shown by learned counsel for the appellant as to how the sentence is inadequate. Simply it has been said that the sentence is inadequate, whereas, other factors have been considered by the trial Court while awarding the sentence to the respondent.

I find no merit in the contentions raised by learned counsel for the appellant and the appeal, being devoid of any merit, is hereby dismissed.

07.10.2015
gurpreet

(DAYA CHAUDHARY)
JUDGE