

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Crl. A S 3832 SB of 2014 (O&M)
Date of decision: 23.01.2015

Satnam alias Kala Appellant
Versus
State of HaryanaRespondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Vikram Bali, Advocate
for the appellant

Ms Neelam Kashyap, DAG, Haryana
for the respondent State

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

The present appeal has been preferred against the judgment of conviction and order of sentence dated 19.08.2014 passed by the Additional Sessions Judge, Karnal (in short, 'the trial Court') whereby the appellant has been convicted and sentenced for commission of offence punishable under Section 15 (b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, 'the Act'), extracted here-in-below:-

Convicted for offence punishable under Section	Sentence awarded
Under Section 15(b) of the Act	To undergo rigorous imprisonment for a period of four years and to pay a fine of Rs.20,000.00. In default of payment of fine, to further undergo rigorous imprisonment for six months

Counsel for the appellant fairly concedes that he does not assail the findings of the trial Court, holding him guilty of committing the aforesaid offence in regard to recovery of 20 kg poppy husk. However, it is argued that the appellant may be heard on the quantum of sentence.

Custody certificate filed in Court is taken on record.

Counsel for the appellant has submitted that the appellant has suffered actual custody for a period of 01 year 09 months 25 days out of the substantive sentence of four years. There is no other criminal case registered much less pending against him under the Act or otherwise. It is prayed that the substantive sentence awarded to the appellant may be reduced to the period already undergone and he would deposit the fine in the trial Court.

Counsel for the respondent State has not disputed factual assertion, but opposed the prayer for reduction in sentence with the submissions that the appellant has been convicted under Section 15(b) of the Act for keeping in possession poppy husk more than small quantity but less than commercial quantity.

I have heard Counsel for the parties and perused the records.

The criminal proceedings were initiated against the appellant with the lodging of FIR No. 272 dated 12.10.2008. The appellant remained in custody as an under trial with effect from 18.10.2008 to 08.03.2010, meaning thereby that he was not arrested on spot and thereafter from 19.08.2014 to 21.08.2014. He has further suffered custody for a period of 05 months and one day after conviction. Perusal of the custody certificate substantiates plea of the appellant that no other criminal case was ever registered against him much less under the Act.

Keeping in view the extent of recovery of poppy husk coupled

with the character and antecedents of the appellant, I am of the considered view that ends of justice would be served, in case substantive sentence awarded to the appellant is reduced to the period already undergone. However, the sentence of fine with default stipulation shall remain intact.

For the reasons aforesaid, the appeal stands disposed of with modification in the aforesaid terms.

(Rekha Mittal)
Judge

23.01.2015
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