

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

**Criminal Appeal S-2225-SB of 2003
Date of Decision: October 7, 2015**

Bhani Ram

.....Appellant

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. Deepak Aggarwal, Advocate for
Mr. Veneet Sharma, Advocate
for the appellant.

Mr. Vikram Bishnoi, Asstt. A.G., Punjab.

T.P.S.MANN, J. (Oral)

On 1.4.2002, SI Harjinder Singh of Police Station 'C' Division, Amritsar received a secret information that the appellant was selling charas in the locality and if a raid was conducted, he could be apprehended alongwith the contraband. When the police party raided the disclosed place, the appellant was apprehended. He was found to be carrying a bag in his right hand. Its search led to 650 grams of charas. Accordingly, FIR No. 52 dated 1.4.2002 under Section 20 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (hereinafter to be referred as 'the Act'), was registered against the appellant and he was formally arrested.

The trial Court after going through the evidence on the record believed the prosecution version and while convicting the appellant under Section 20 of the Act, sentenced him to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.5,000/- and in default of payment of fine, to further undergo rigorous imprisonment for two months.

Learned counsel for the appellant has submitted that he does not want to argue the case on merits. He, however, submits that the appellant was 66 years of age at the time of the occurrence and by now, he is aged about 80 years. The contraband recovered from him did not fall in the category of commercial quantity. He is not a previous convict. He has already undergone a period of about five months out of the sentence of two years imposed upon him. Therefore, the remaining sentence of imprisonment of the appellant be set aside.

Learned State counsel has opposed the prayer made on behalf of the appellant by submitting that the appellant had been indulging in illegal activity of dealing in contraband. The recovery effected from him was heavy. Therefore, the appellant does not deserve any concession in the matter of sentence of imprisonment. He has, however, produced the custody certificate, as per which, the appellant has undergone an actual period of four months and eighteen days. The appellant is not shown to be

involved in any other case.

Taking into consideration the totality of the circumstances, this Court is of the considered view that no useful purpose will be served by sending the appellant behind the bars, once again, to undergo the remaining sentence of imprisonment imposed upon him. Ends of justice would be amply met, if the substantive sentence of imprisonment of appellant is reduced to that already undergone by him.

Resultantly, the conviction of the appellant under Section 20 of the Narcotic Drugs & Psychotropic Substances Act, 1985 is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him. The sentence of fine alongwith its default clause is maintained.

The appeal is, accordingly, disposed of.

October 7, 2015
amit rana

(T.P.S. MANN)
JUDGE