

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

**CRA-S-1600-SB of 2003 (O&M)
Date of decision:14.01.2015**

Bhola Singh

... Appellant

Versus

State of Punjab

...Respondent.

CORAM: HON'BLE MR.JUSTICE ASHUTOSH MOHUNTA

Present: None for the appellant.

Ms. Munisha Gandhi, Addl. Advocate General, Punjab.

ASHUTOSH MOHUNTA, J. (Oral)

The appellant-Bhola Singh has filed this appeal being aggrieved by the judgment of conviction and order of sentence dated 18.08.2003 passed by the Judge, Special Court, Patiala, vide which the appellant was convicted under Section 15 of the Narcotic Drugs & Psychotropic Substances Act, 1985 and sentenced to undergo rigorous imprisonment for a period of one year and pay a fine of Rs.1,000/- and in default of payment of the fine to further undergo rigorous imprisonment for one month.

Brief facts of the case are that on 04.07.1999, Krishan Kumar was posted as Incharge, C.I.A., Samana and while patrolling along with other police officials and Chhaju Singh PW for checking of suspected persons, on Government vehicle, which was driven by

Balwant Singh, driver and the police party was going from Nialkallan to village Fatehpur via Kacha path and when the police party reached near Bhakara Canal bridge in the area of village Fatehpur, accused-Bhola Singh was seen coming on foot carrying a plastic bag on his head. On seeing the police party, the appellant tried to turn back and run away. However, he was apprehended being suspected that he was carrying some contraband in the bag carried by him.

After being given an offer to the appellant of being searched by a Gazetted Officer or Magistrate, he opted to be searched by a Gazetted Officer. Thereafter, Paramvir Singh Gill, D.S.P., Samana was called at the spot. The identity of the officer was disclosed to the accused-appellant and the plastic bag which was being carried by the accused was searched.

On search being carried out of the bag, 20 Kg of poppy husk was found. After completing all the formalities, the accused-appellant was challaned under Section 15 of the NDPS Act. During the trial, the prosecution examined all the officials who were present at the time of apprehending the accused and the official who searched the bag confiscating the contraband. The trial Court after relying upon the evidence, convicted the appellant-accused under Section 15 of the NDPS Act and sentenced him to undergo rigorous imprisonment for one year and deposit fine as mentioned in the opening paragraph.

As quantity of the poppy husk which was seized from the appellant-accused was 20 kg, which was non-commercial in nature, therefore, the accused-appellant deserves to be dealt with leniently. The accused -appellant has already undergone almost 2 months of actual imprisonment.

Keeping in view the fact that the trial has been going on for the last 15 years and also keeping in view the quantity of poppy husk seized from the appellant-accused, the conviction of the appellant-accused as recorded by the Judge, Special Court, Patiala on 18.08.2003 is upheld. However, I reduce the sentence to the one already undergone by the petitioner. The sentence of fine is, however, maintained.

Disposed of.

(ASHUTOSH MOHUNTA)
JUDGE

14.01.2015

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