

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

RESERVED ON : MAY 05, 2015

DECIDED ON : MAY 15, 2015

+ CRL.A. 1312/2014

NARCOTICS CONTROL BUREAU Appellant
Through : Mr.B.S.Arora, Advocate.

versus

BELLA MALOI Respondent
Through : Mr.S.K.Lamba with Mr.Vikas
Sachdev, Advocates.

**CORAM:
HON'BLE MR. JUSTICE S.P.GARG**

S.P.GARG, J.

1. The instant appeal has been preferred by the appellant-Narcotics Control Bureau to challenge order on sentence dated 08.07.2014 of learned Special Judge, NDPS Patiala House Courts by which the respondent was sentenced to undergo SI for nine months and four days with fine ₹75,000/-. The appeal is contested by the respondent.

2. I have heard the learned counsel for the parties and have examined the file. Allegations against the respondent were that on

04.10.2013 at IGI Airport, she attempted to transport 7.5 kg of pseudoephedrine from New Delhi to Kochi via flight No.AI-048 of Air India by carrying it in her luggage. The substance was recovered from her luggage. After completion of investigation, she was charged for committing offence under Section 25 A read with Section 28 of the NDPS Act by an order dated 19.03.2014. The respondent pleaded not guilty to the charge and claimed trial. Subsequently, on 1st July, 2014, the respondent moved an application admitting her guilt. She prayed to take lenient view. By a separate judgment dated 01.07.2014, the respondent was held guilty under Section 25 A read with Section 28 of the NDPS Act. After hearing the arguments on sentence, by the impugned order dated 08.07.2014, the respondent was awarded the aforesaid sentence.

3. Appellant's grievance is that the sentence awarded by the Trial Court is not commensurate with the offences committed by her. Prayer has been made for its enhancement in view of judgment in case *Union of India vs. Kuldeep Singh* 2003 STPL(LE) 33099 SC. The respondent who appeared in person has contested the appeal.

4. The learned Trial Court recorded detailed cogent reasons to take lenient view. The judgment cited by the appellant's counsel was discussed in detail. Mitigating circumstances brought on record by the

respondent who was in custody were considered. The respondent was in custody for the last about more than nine months in this case. She is not a previous convict and is not involved in any other criminal case. Instead of contesting the case, she at the initial stage admitted her guilt. She was suffering from financial hardship due to involvement in this case and was unable to deposit the fine amount of ₹75,000/-. It has come on record that she underwent the default sentence for its non-payment. In her statement tendered under Section 67 NDPS Act, she disclosed that she was allured to transport the substance on receipt of \$2,000/-. She was unable to engage private counsel and was provided amicus at State expenses.

5. After the respondent completed the sentence awarded to her, the instant appeal was preferred on 19.09.2014. The respondent intends to go to her native country to take care of her four children aged 13,14,16 and 20 years. She is also to take care of her 112 years old grand mother. Record reveals that she was suffering from various ailments. Medical report received from Tihar jail during trial showed that she was suffering from hypertension and was getting medical treatment there.

6. Considering the mitigating and peculiar facts and circumstances of the case, the sentence awarded to the respondent needs no enhancement.

7. The appeal lacks merits and is dismissed. Trial Court record (if any) along with a copy of this order be sent back forthwith.
8. Copy of the order be given '*dasti*' to the respondent.

(S.P.GARG)
JUDGE

MAY 15, 2015
sa