

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

CRA-S-1331-SB of 2004.

Decided on:-13.1.2016.

Mehal Singh.

.....Appellant.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment? Yes
2. To be referred to reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

Present:- Mr. K.S. Brar, Advocate for
Mr. S.P.S. Sidhu, Advocate
for the appellant.

Mr. Sultan Singh Gill, DAG, Punjab.

HARI PAL VERMA, J.

Appellant Mehal Singh has filed the present appeal against judgment and order dated 11.5.2004 passed by learned Special Judge, Moga in case FIR No.67 dated 4.4.2000 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, the Act), registered at Police Station, City Moga, whereby he was convicted under Section 15(b) of the Act and sentenced to undergo rigorous imprisonment for 3 years and to pay a fine of Rs.15,000/- and in default to pay fine, to further undergo rigorous imprisonment for 3 months.

At the very outset, learned counsel for the appellant has submitted that he restricts his arguments only to the extent of reduction of sentence awarded by the trial Court and does not assail the judgment of conviction. He has submitted that the appellant is a poor man about more than 60 years of age and has to support his family. According to him, in the present case, quantity of poppy husk recovered from the appellant is much below the commercial quantity and out of total awarded sentence of 3 years, the appellant has already undergone imprisonment for about 9 months. Learned counsel for the appellant, therefore, has prayed that keeping in view the fact that the appellant is a poor and old man and has to support his family and the quantity of contraband recovered from him, which is below the commercial quantity, the sentence awarded to the appellant may be reduced to the period already undergone by him.

In support of his contentions, learned counsel for the appellant has relied upon *Shahejadjkhan Maheubkhan Pathan Versus State of Gujarat 2012(4) RCR (Criminal) 684 (SC)*; *Nishan Singh Versus State of Punjab 2011(3) Law Herald 1944 (P&H)* and *Kaka Singh Versus State of Punjab 2010(2) RCR (Criminal) 383 (P&H)*.

On the other hand, learned State counsel has filed the affidavit of custody furnished by Surinder Singh, Superintendent, Central Jail, Ferozepur. The same is taken on record. According to the said affidavit, the appellant has undergone imprisonment for 8 months and 29 days as on

7.1.2016. He has, however, submitted that taking into consideration the present time when the use of narcotic contrabands are on high rise, the appellant does not deserve even the reduction of sentence.

I have heard learned counsel for the parties.

The appellant was allegedly found in possession of 30 Kgs of poppy husk, which is a non-commercial quantity and, therefore, the appellant has rightly been convicted by the trial Court. However, in the light of aforementioned judgments cited by learned counsel for the appellant as well as taking into consideration the fact that the appellant is more than 60 years of age and there is no other case pending against him right from the date of registration of present FIR on 4.4.2000, thus suffering the agony of trial for the last more than 15 years, I deem it fit to reduce his substantive sentence to the period already undergone by him.

Except with the modification in the quantum of sentence, as indicated hereinabove, the present appeal stands dismissed.

January 13, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE