

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA No. S-134-SB of 2004
DECIDED ON: JANUARY 27, 2016

PRITHI RAJ SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH.

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

Present: Mr. Kapil Khanna, Advocate
for the petitioner.

Mr. J.S. Sekhon, AAG, Punjab.

Instant appeal has been preferred by Prithi Raj Singh against the judgment of conviction and order of sentence dated August 04, 2003 passed by learned Judge, Special Court, Kapurthala whereby he has been convicted under Section 18 of the NDPS Act in case FIR No. 184 dated December 03, 1997 registered at Police Station Kotwali, Kapurthala and sentenced to undergo RI for a period of four years; besides to pay fine.

2. Briefly stated the facts of the case are that on December 03, 1997, appellant was apprehended by SI Amrik Singh for having conscious possession of 800 gms opium.

3. After completion of investigation, challan against the appellant was

presented in the court of jurisdictional Magistrate. He was supplied the copies of police report and other documents appended therewith as required under Section 207 Cr.P.C.

4. Finding a prima facie case against the appellant, he was charge sheeted for offence under Section 18 of NDPS Act to which he pleaded not guilty and claimed trial.

5. In order to prove its case, prosecution examined as many as six witnesses.

6. Incriminating circumstances appearing in the prosecution evidence were put to accused in his statement under Section 313 Cr.P.C. who denied the same, pleaded innocence and complained a false implication. Appellant was called upon to enter in defence and he examined Narain as DW-1, HC Ram Lal as DW-2 and Kishore as DW-3

7. After hearing learned counsel for the parties and having gone through the material on record, appellant was held guilty under Section 18 of NDPS Act. Accordingly, he was convicted as sentenced, as detailed above.

8. At the very outset, learned counsel for the petitioner submits that he does not challenge the conviction on merits and only confined his relief quantum of sentence. This Court has also scrutinized the impugned judgment of conviction and order of sentence as well as the relevant documents/evidence and is of the considered view that there is no scope for any interference in impugned judgment of conviction and order of sentence as far as the conviction of the appellant is concerned. As such, the conviction of the appellant is upheld.

9. Learned counsel for the appellant further submits that appellant is a poor person and no other case of similar nature is either pending or disposed of

against him. He is the only bread winner in the family and he never misused the concession of bail. He has already undergone a period of 01 year and 08 months, out of total substantive sentence of four years. Accordingly, learned counsel for the appellant prays that sentence imposed upon the appellant be reduced to the period already undergone.

10. This Court has given an anxious thought to the submissions made by learned counsel for the appellant and have gone through the record available on file.

11. It would be significant to note that appellant has been sentenced to undergo imprisonment under Section 18 of the NDPS Act for a period of four years. As per custody certificate furnished by learned State counsel, appellant has already undergone sentence for a period of 01 year and 08 months out of total substantive sentence of four years.

12. After bestowing due consideration to the aforesaid submissions and considering the entire facts and circumstances, this Court is of the considered view that petitioner deserves some modification in the quantum of sentence and the ends of justice would meet, in case, sentence imposed upon appellant is modified. Accordingly, sentence imposed upon the appellant under Section 18 of NDPS Act is reduced to the period already undergone by him.

JANUARY 27, 2016
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(JASPAL SINGH)
JUDGE