

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRA-S-149-SB of 2004 (O&M)

Date of decision: 03.02.2016

Bhanwar Lal

.....Applicant

versus

State of Haryana

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.S.S.Behl, Advocate for the appellant
Mr.Maheshinder Singh Sidhu, Addl.A.G. Haryana

1. *Whether Reporters of Local Newspapers 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?*

Kuldip Singh, J. (Oral)

The allegations against the present appellant are that on 23.3.2001, one kg of opium was recovered from his possession. The appellant was tried for commission of offence punishable under Section 18 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS Act') by learned Judge Special Court, Ambala and convicted and sentenced to undergo Rigorous Imprisonment for 5 years and fine of Rs.10000/-. In default thereof, further Rigorous Imprisonment for six months vide judgment of conviction dated 16.12.2003 and order of sentence dated 18.12.2003.

Learned State counsel has filed custody certificate in Court. The same is taken on record, which is apparently incorrect.

Examination of file shows that the appellant remained in custody from

23.3.2001 to 23.3.2002 during trial as he was released on bail only on the orders of this Court. After the conviction, he remained in custody for two months and eight days. The total custody period is one year two months and eight days.

I have heard learned counsel for the parties and have carefully gone through the file.

At the time of arguments, learned counsel for the appellant has not pressed the appeal on merits and has prayed that the appellant was 20 years old boy at the time of alleged crime and no previous conviction is alleged against him. Therefore, he may be sentenced to the period already spent by him in jail.

Perusal of the lower Court file shows that at the time of trial, the accused was 20 years of age. In the custody certificate, the State does not allege any other crime against the appellant. Therefore, in the given circumstances, the sentence of five years is reduced to the one year two months eight days already spent by the accused in jail i.e. the period already undergone as calculated above. Sentence of fine is maintained.

With above modification, the appeal is dismissed.

03.02.2016
gk

(Kuldip Singh)
Judge