

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

CRA-S-No.1779-SB OF 2004
DATE OF DECISION : 24th AUGUST, 2016

Dinesh Kumar

.... Appellant

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : None for the appellant.

Mr. Karan Sharma, Assistant Advocate General, Haryana.

* * * *

A. B. CHAUDHARI, J. (ORAL)

This appeal is directed against the judgment and order dated 03.09.2004 passed by Judge, Special Court, Rewari in NDPS case No.2 of 2003 by which the appellant was convicted for offence under Section 20 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (in short, the NDPS Act) and was sentenced to undergo rigorous imprisonment for a period of three months and was ordered to pay fine in the sum of ₹3,000/- and in default to undergo further simple imprisonment for a period of two months.

The present appeal was filed by the appellant and none has appeared for the appellant today.

The appellant was caught along with 500 grams of *ganja*.

He was sent on trial after the chargesheet was filed. The recovery of the

contraband was effected from the bag carried out by the accused in his hand near Bus Stand Rewari.

The official witnesses fully supported the prosecution case and deposed before the trial Judge about the seizure of 500 grams of *ganja* from the appellant. I have seen the reasons recorded by the learned trial Judge after evaluating the oral as well as documentary evidence tendered by the prosecution. I concur with the reasons regarding conviction of the appellant. I, therefore, confirm the conviction of the appellant under Section 20 of the NDPS Act ordered by the learned trial Judge.

The next question is about the award of sentence. The trial Court had awarded sentence of rigorous imprisonment for a period of three months and fine of ₹3,000/-. The appellant underwent the sentence of about 15 days. The incident took place in the year 2002 and thus there is long period has passed from the date of offence. In my opinion, it would be harsh to push the appellant again in the jail, particularly when the sentence awarded to him was three months only. This court had suspended his sentence when the appeal was admitted.

In that view of the matter, I think order of sentence should be modified to the sentence which he has already undergone. In the result I make the following order:

ORDER

- (i) CRA-S-No.1779-SB OF 2004 is partly allowed.
- (ii) The judgment and order of conviction of the appellant under Section 20 of the NDPS Act is confirmed.

- (iii) The order awarding sentence of rigorous imprisonment for a period of three months is modified and the appellant is sentenced to undergo rigorous imprisonment for the period he has already undergone.

- (iv) However, the sentence of fine shall remain intact.

24th AUGUST, 2016
‘raj’

(A. B. CHAUDHARI)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No.</i>