

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

CRA-S No.915-SB of 2004  
Date of decision: 24.10.2016

Ram Saran

.... Appellant

versus

State of Punjab

.... Respondent

**CORAM: HON'BLE MR. JUSTICE AJAY TEWARI**

Present: Mr. Zorawar Singh, Advocate for  
Mr. N.S.Shekhawat, Advocate  
for the appellant.

Mr. Ashish Sanghi, DAG, Punjab.

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**Ajay Tewari, J.(Oral)**

This appeal has been filed against the order of conviction of the appellant under Section 15 of the NDPS Act. The appellant has been sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of ₹2,000/- and in default of payment of fine, he would further undergo RI for a period of two months.

As per the allegations, the complainant police party comprising ASI Vijay Singh, HC Satwinder Singh, Constable Shamsheer Singh and PHG Parampal was patrolling out near the bridge of Canal Minor Maheshpura at about 4.00 pm, a man carrying a plastic container in his hand was spotted towards the northern side of the canal. On noticing the police party, the said man left the plastic container and abruptly started off along the bank of minor canal in quick steps. On the basis of suspicion, the police party apprehended the said person, who disclosed his name as Ram Saran s/o

Phool Singh on enquiry. When the police party asked him about the contents of the bag, he disclosed that the same was poppy husk. The recovery of contraband was 10 kg out of which two samples of 250 grams each were extracted and were prepared into parcels. A seal was put on the plastic bag containing remaining poppy husk. The sample parcels, bag containing remaining poppy husk, plastic container and specimen seal were taken into possession vide recovery memo. A ruqa was sent through PHG Param Pal for registration of case. The investigations were completed and the final report under Section 173 Cr.P.C. was prepared and submitted in the Court. Prima facie case under Section 15 of NDPS Act was made out against the accused and accordingly charge was framed against the accused to which he did not plead guilty and claimed trial.

The trial proceeded and during the course of trial, prosecution examined PW-1 – ASI Vijay Singh, Investigating Officer, PW-2 HC – Gurmail singh, PW-3 HC- Satwinder Singh, PW-4 SI Surjit Singh and PW-5 HC Balwinder Singh, who supported the prosecution case.

At the closing of the prosecution evidence, the accused was examined under Section 313 Cr.P.C. and was confronted with the evidence of the prosecution. The accused denied the correctness of the evidence and pleaded innocent. He further pleaded that he had been falsely implicated in this case. He further pleaded that in fact he had a dispute with Dhaba owner on account of the excess amount charged by him and the dhaba owner had got planted false case upon him in connivance with the police.

Several opportunities were given to the accused person to lead evidence in his defence but he did not lead any evidence.

The trial court after appreciating the evidence on record, found the accused guilty for an offence punishable under Section 15 of the Act and sentenced to undergo rigorous imprisonment and fine, as mentioned above.

Learned counsel for the appellant submits that he would not press this appeal on merits but relies on *Ram Dayal @ Buta vs. State of Punjab, 2014(5) Herald 3914* for reduction in sentence. He further submits that in fact in that case the recovery was of 11 kgs of poppy husk and sentence was reduced to 4 months. He further submits that antecedents of the appellant are clear.

Learned State counsel has placed on record the custody certificate of the appellant in Court, which is taken on record, according to which, antecedents of the appellant are corroborated. The custody certificate also shows that the appellant has undergone imprisonment of 02 months and 16 days out of total substantive sentence of two years. Learned State counsel is not in a position to cite any judgment against the judgment referred by the counsel for the appellant.

I have heard learned counsel for the parties and perused the case file with their assistance.

Even while dismissing the appeal of the appellant against conviction, keeping in view the facts and circumstances of the case, the sentence of the appellant under Section 15 of the Act stands reduced to four months. The appellant is directed to surrender before the Jail Authorities, Nabha to serve the remaining period of sentence.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

October 24, 2016  
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(AJAY TEWARI)  
JUDGE

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No  
Yes/No