

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

**Crl. Appeal No.S-2697-SB of 2016 (O&M)
Date of Decision: September 01, 2016**

Sonu

...Appellant

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ranjodh Singh Sidhu, Advocate
for the appellant.

Mr.Varun Sharma, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present appeal has been filed by the appellant against the judgment of conviction and order of sentence dated 08.07.2016 passed by learned Judge, Special Court, Tarn Taran whereby the appellant was held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of ₹5,000/- and in default of payment of fine, to further undergo simple imprisonment for a period of three months under Section 22 of the NDPS Act.

The brief facts of the prosecution case as noted down in the judgment passed by learned Judge, Special Court, Tarn Taran, are as under:-

“2. Briefly stated the facts of the prosecution case are that on 17.01.2013, ASI Satnam Singh along with other police officials were on patrolling and were present at Goindwal bypass. After some time, one bus was stopped there which came from Harike side and accused came out from the said bus having one

polythene packet in his hand. On seeing the police party, he has thrown the said polythene packet on the ground and has turned back. He was apprehended by the Investigating Officer with the help of other police officials. On inquiry, he told his name as Sonu son of Avtar Singh, resident of Gali Garments Wali, Tarn Taran. Then, Investigating Officer tried to join the public witness before his search but nobody was ready to join the police party. Then, Investigating Officer picked up the said polythene packet from the ground and on search the same 600 capsules of Parvan Spas were recovered from the said polythene packet. The same put into a plastic container along with polythene packet and parcel of the same was prepared by Investigating Officer and sealed with his seal "SS" and also put his seal impression "SS" on form M-29 and incriminating articles were taken into possession by the investigating officer. Ruqa was sent to the police station on the basis whereof formal FIR was registered against the accused. Rough site plan of the place of recovery was prepared. Accused was arrested in this case and further investigation was ensued and on completion of investigation, challan was presented before the court."

On presentation of challan against accused-appellant, copies of challan and other documents were supplied to him under Section 207 Cr.P.C. Finding prima facie case, the accused-appellant was charge-sheeted under Section 22 of the NDPS Act, to which he pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 SI Jasbir Singh, PW-2 Head Constable Dalwinder Singh, PW-3 Inspector Gurmeet Singh and PW-4 ASI Satnam Singh.

At the close of prosecution evidence, the accused-appellant was examined under Section 313 Cr.P.C. He was confronted with the evidence of the prosecution and he denied the correctness of the evidence and pleaded himself as innocent. Only one witness was examined in defence.

The learned trial Court, after appreciation of the evidence, convicted and sentenced the accused-appellant as stated above.

At the time of arguments, learned counsel for the appellant did

not dispute the findings regarding conviction and only prayed for reduction of sentence of the appellant. Learned counsel for the appellant contended that 600 intoxicant capsules of Parvon Spas containing Dextropropoxyphene have been recovered from the accused-appellant, which falls under non-commercial quantity. The appellant is suffering from criminal proceedings since 2013. He is first offender and only bread earner of the family. He further contended that accused-appellant has already undergone about 3 months and 24 days of actual sentence.

On the other hand, learned State counsel argued that case of the prosecution has been duly proved by the PWs. There is nothing on the record to show false implication of the accused in the present case. He next argued that PWs have consistently deposed regarding the recovery from the accused. Learned State counsel, therefore, argued that there being no merit, the present appeal should be dismissed.

I have heard learned counsel for the appellant as well as learned State counsel and have gone through the record.

Keeping in view the facts and circumstances of the present case and in view of the fact that appellant is first offender, only bread earner of the family and is suffering from long protracted criminal proceedings since 2013 i.e. for the last about 3 years and further in view of the fact that appellant has already undergone actual sentence of about 3 months and 24 days out of the total sentence and keeping in view the fact the recovery from the accused-appellant falls under non-commercial quantity i.e. 600 intoxicant capsules of Parvon Spas, the sentence imposed upon the appellant is reduced to the sentence already undergone by him. However, the sentence

is directed to undergo simple imprisonment for a period of one month instead of three months.

Accordingly, present criminal appeal stands partly allowed.

Appellant Sonu, who is in custody, be set at liberty forthwith, if his custody is not required in connection with any other case, subject to payment of fine, if already not paid.

September 01, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No