

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

Crl. Appeal No.S-2846-SB of 2016 (O&M)

Date of Decision: November 28, 2016

Ranjit Kaur

...Appellant

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rishu Mahajan, Advocate
for the appellant.

Ms.Shivali, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present appeal has been filed by the appellant against State of Punjab, challenging the judgment of conviction and order of sentence dated 01.08.2016 passed by learned Addl. Sessions Judge, Amritsar, whereby the appellant was held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of three years and to pay fine of ₹10,000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of two months under Section 22 of the NDPS Act.

The brief facts of the prosecution case as noted down in the judgment passed by learned Addl. Sessions Judge, Amritsar, are as under:-

“2. In nutshell, facts as put forth by the prosecution in its case against the accused are that on 5.6.2014 I.O. ASI Charan Singh alongwith other police personnel comprising Lady Ct. Maninder Kaur and HC Sukhwinder Singh were going from P.S. Lopoke towards Villages Chogawan, Tapiala, Bhullar, Kotli etc. on their private car Bollero in connection with patrolling and search of bad elements during which when the police party reached near Bus Stop Vill. Tapiala a lady was

seen coming from the side of Vill. Tapiala and she was holding some substance in her hand and on seeing the police party she tried to throw the substance but was apprehended by I.O with the help of other police personnel and Lady Ct Maninder Kaur. On being asked her name and identity she disclosed her name and identity as Ranjit Kaur. On checking the polythene bag which she was holding in her right hand it was found to be containing intoxicant powder out of which a sample weighing 10 gms was separated and was put into a plastic container and remaining bulk portion was weighed which came out to be 100 gms which was also put into a different plastic container alongwith polythene. Both the container were converted into parcels and were sealed by I.O with his seal impression CS. Sample seals were prepared separately. Relevant portion of Form M29 was completed. Seal was handed over to HC Sukhwinder Singh after use. Both the parcels, sample seals and Form M29 were taken into possession vide memo ExP1 in the presence of HC Sukhwinder Singh and Lady Ct Maninder Kaur, Ruqa Ex.P2 was sent to police station on the basis of which formal FIR Ex.P3 was recorded by SI Didar Singh. I.O prepared rough Site plan Ex.P4 at the spot. Accused was arrested vide memo Ex.P5 and intimation regarding her arrest was given to her relatives in the presence of witness. During her personal search nothing valuable was recovered from the possession of the accused. Personal search Memo is Ex.P6 which was prepared in the presence of witness. Statement of witnesses were recorded. On arrival to police station, I.O produced the case property before Insp. Sikander Singh the then SHO P.S. Lopoke alongwith accused. After verifying the intactness of the seals on the parcels, SHO sealed the parcels with his impression SS, prepared his sample seals separately and after completion of relevant portion of Form M29, SHO kept the all in his double lock. Handing over memo to this effect is Ex.P7 which was attested by SHO Sikandar Singh. The case property was produced before the Area Magistrate for authentication and the sample was sent to the office of chemical examiner.”

After completion of investigation, the challan was presented against the accused-appellant. On presentation of challan against accused-appellant, copies of challan and other documents were supplied to her 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 she pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 ASI Charan

Singh, Investigating Officer, PW-2 Head Constable Harwant Singh, PW-3 Inspector Sikandar Singh, PW-4 Head Constable Sukhwinder Singh, PW-5 Constable Maninder Kaur and PW-6 Inspector Harminder Singh, SHO.

At the close of prosecution evidence, the accused-appellant was examined under Section 313 Cr.P.C. She was confronted with the evidence of the prosecution and she denied the correctness of the evidence and pleaded herself as innocent.

No 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 110 grams of intoxicant powder containing Diacetylmorphine has been recovered from the accused-appellant, which falls under non-commercial quantity. He further contended that the appellant is a lady, first offender and only bread earner of the family and she is suffering from criminal proceedings since 2014. He further contended that accused-appellant has already undergone actual sentence of more than 5 months.

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.

In view of the evidence, I find that the prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt. Therefore, the judgment of conviction dated 01.08.2016 passed by learned Addl. Sessions Judge, Amritsar, is correct, as per law and does not require any interference from this Court.

However, keeping in view the facts and circumstances of the present case and in view of the fact that appellant is a lady, first offender, only bread earner of the family and is suffering from long protracted criminal proceedings since 2014 i.e. for the last 2 years and further in view of the fact that appellant has already undergone actual sentence of more than 5 months out of the total sentence and keeping in view the fact the recovery from the accused-appellant falls under non-commercial quantity i.e. 110 grams of intoxicant powder containing Diacetylmorphine, the sentence imposed upon the appellant is reduced to the sentence already undergone by her. However, the sentence of fine and in default thereof shall remain the same.

Accordingly, present criminal appeal stands partly allowed.

Appellant Ranjit Kaur, who is in custody, be set at liberty forthwith, if her custody is not required in connection with any other case, subject to payment of fine, as imposed by the Courts below within one month from the date of this order.

November 28, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No