

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM-16587 of 2016 in/and
CRA-S-2257-SB of 2015 (O&M)
Date of Decision: June 03, 2016.

Rajwinder Singh @ Raju

....Appellant

Versus

State of Punjab.

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJAN GUPTA

Present: Mr. M.S.Sodhi, Advocate, for the appellant.

Ms.Rajni Gupta, Addl.A.G, Punjab

Rajan Gupta, J (Oral)

CRM-16587 of 2016

This is an application for suspension of sentence during the pendency of appeal. With the consent of counsel for the parties, main appeal has been taken up for hearing.

CRA-S-2257-SB of 2015

Present appeal is directed against the judgment of conviction and order of sentence dated 28.11.2014 delivered by Special Court, Ferozepur. The trial court after recording the prosecution evidence, came to the conclusion that the accused/appellant was guilty of possession of 20 kg of poppy husk. The accused was convicted under Section 15 of Narcotic Drugs & Psychotropic Substances Act, 1985 and sentenced to undergo R.I for 2 years and to pay a fine of Rs.10,000/-.

Feeling aggrieved against the judgment of the trial court, the appellant has approached this court through the instant appeal.

Learned counsel for the appellant at the outset states that he

is limiting his prayer only to the extent of reduction in the sentence awarded and does not assail the judgment of conviction. Learned counsel has submitted that the appellant is a poor and has already faced agony of protracted trial. Learned counsel, therefore, prays that keeping in view the fact that the appellant has to support her family and the sentence be reduced to the period already undergone by him.

Learned State counsel on the other hand submits that in case conviction of appellant is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:-

On 14.11.2010 at about 12.15 pm, police party alongwith SI Sanjiv Kumar were on patrolling duty, when appellant was found in possession of 20 kg of poppy husk without any valid license in the area of village Behak Khas, Police Station Sadar, Fazilka. The case property was duly deposited with ASI-Kuldeep Singh, the then acting SHO-Fazilka who took the appellant in custody with the case property and produced him in the court alongwith inventory report. The sample parcel was sent at the office of chemical examiner, which confirmed the contraband of poppy husk.

Finding prima facie case under Section 15 of the NDPS Act, charge was framed against the accused/appellant to which he pleaded not guilty and claimed trial.

To substantiate its case against the accused, the prosecution examined as many as four witnesses.

The statement of the accused under Section 313 Cr.P.C was

recorded, wherein all the incriminating evidence available on record was put to him. He refuted the same and pleaded false implication. He did not examine any witness in his defence.

On the basis of evidence on record, learned trial court held the appellant guilty of the charge framed against him and sentenced him as already indicated above.

On perusal of the impugned judgment as well as trial court record, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the appellant guilty of the charge framed against him. There is no infirmity or illegality in the findings given by the court below. The conviction of the appellant is, thus, affirmed.

Even counsel for the appellant, during the course of arguments has not assailed the judgment of conviction. He has, however, pleaded for reduction in the quantum of sentence on the ground that the appellant is a poor man and has already faced agony of protracted trial.

Learned State counsel submits that the appellant has undergone actual custody of about 1 year, 5 months and 6 days.

Keeping in view the facts and circumstances of the case, I deem it fit to reduce his substantive sentence to a period already undergone. However, the fine imposed by the trial court shall remain intact. Ordered accordingly.

Except with modification in the quantum of sentence, as indicated herein above, the appeal stands dismissed.

(Rajan Gupta)
Judge

June 03, 2016.
BB