

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

CRA S-3574-SB of 2016 (O&M)

Decided on: 09.11.2016.

Mukesh Kumar

... Appellant

Versus

State of Punjab

... Respondent

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Ashish Aggarwal, Advocate,
for the appellant.

Mr. Mehardeep Singh, Addl. AG, Punjab.

JITENDRA CHAUHAN.J.

This appeal is directed against the judgment and order dated 26.07.2016, passed by Judge, Special Court, Tarn Taran vide which the appellant was convicted under Section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (for short “the NDPS Act”) and sentenced to undergo RI for one year and to pay fine of Rs.10,000/- with default stipulation.

Briefly stated the case of the prosecution as noticed in the judgment passed by the trial Court is as under:-

“Briefly stated the facts of the prosecution case are that on 05.08.2012, ASI Ranjit Singh along with other police officials were on patrolling and were present at bridge minor canal village Thathi, main

road Tarn Taran to Amritsar. Then, the accused was seen coming from the side of village Daburji on the bank of said minor canal. On seeing the police party, accused sit down on the ground on the pretext of urinating. He was apprehended by the Investigating Officer with the help of other police officials. On inquiry, he told his name as Mukesh Kumar son of Surjit Kumar, resident of Gali Tahla Ram Wali, Mohalla Guru Ka Khu, Tarn Taran. At that time, he was holding a polythene packet in his right hand and on inquiry, accused told that said polythene packet is having intoxicant tablets and also shown the said polythene packet to Investigating Officer by opening the same and four small packets each having 100 microlit tablets were recovered from the said packet, total 400 microlit tablets were recovered. Investigation Officer tried to join the public witness but nobody was ready to join the police party. Thereafter, the said recovered tablets were put into the dabbi plastic and parcel of the same was prepared by the Investigating Officer and sealed with his seal “RS” and he also put his seal impression “RS” on Form M-29 and incriminating articles were taken into

possession by him. 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, copies of documents as required under Section 207 Cr.P.C were supplied to the accused, free of costs.

Charge under Section 22 of the NDPS Act was framed against the accused to which the accused did not plead guilty and claimed trial.

In order to prove its case, the prosecution examined PW-1, ASI Amarjit Singh, PW-2, SHO Sukhbir Singh, PW-3 Retired ASI Ranjit Singh, Investigating Officer and PW-4 HC Satnam Singh and thereafter closed its evidence.

The statement of accused was recorded under Section 313 Cr.P.C in which all the incriminating circumstances appearing in the prosecution evidence were put to the accused to which the accused denied and pleaded false implication.

After appraisal of the evidence, the trial Court, vide impugned judgment and order dated 26.07.2016, convicted and

sentenced the accused, as narrated above.

Feeling aggrieved against the judgment and order dated 26.07.2016, passed by the trial Court, the accused has filed the instant appeal.

It is submitted by the learned counsel for the appellant that he does not challenge the judgment of conviction on merits but prays that a lenient view be taken in the matter of sentence. It is further submitted that the appellant was 23 years of age at the time of commission of crime. He is not involved in any other FIR. He is the only bread earner of his family.

Though, no challenge is laid to the judgment of conviction still this Court has gone through the entire evidence and finds that no link is missing in the case of the prosecution. The Investigating Officer, ASI Ranjit Singh while appearing as PW-3 has fully supported the version of the prosecution and proved on record all the material documents i.e. seal impression "RS Ex.P-2 on Form M-29 Ex.PE, recovery Memo Ex.PA, ruqa Ex.,PW-3/A, FIR Ex.PW-3/, site plan Ex.PW-3/C and other memorandums. PW-1, ASI Amarjit Singh, recovery witness and PW-2, SHO Sukhbir Singh fully supported the prosecution version and corroborated the testimony of PW-3 ASI Ranjit Singh, I.O. The case property remained intact throughout, therefore, the delay of eight days in sending the sample does not assume much importance. Thus, the judgment of conviction is upheld.

Now adverting to the quantum of sentence, taking into consideration the fact that the appellant is young man of 26 years of age; he is the sole bread winner of his family, he is not involved in any other FIR, this Court feels that these are the mitigating factors in favour of the appellant to take a lenient view in the matter of sentence. Accordingly, the sentence of the appellant is reduced from one year to nine months under Section 22 of the NDPS Act. However, the same shall be subject to payment of fine of Rs.5000/- over and above the fine imposed by the learned trial Court.

The appeal is allowed partly in the manner indicated above.

09.11.2016.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No