

**IN THE HIGH COURT FOR THE STATES OF PUNJAB &
HARYANA AT CHANDIGARH.**

CRA-S-645-SB-2016

Date of decision: March 18, 2016

Jaspal Kaur

...Appellant

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Vivek Goel, Advocate for the appellant.

Mr. Shilesh Gupta, Addl. Advocate General, Punjab.

Rajan Gupta, J. (oral)

This is an appeal against the judgment of conviction and order of sentence dated 02.02.2016, delivered by Special Court, Faridkot. The trial court after recording the prosecution evidence, came to the conclusion that the accused/appellant was guilty of possession of contraband (i.e. 07 Kgs. of poppy husk). The accused was convicted under Section 15 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (hereinafter referred to be as "NDPS Act") and sentenced to undergo RI for six months and to pay a fine of Rs.2000/-.

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

Learned counsel for the appellant 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 lady of about 51 years of age and

has already faced agony of protracted trial. He has further submitted that the appellant is first offender and is not involved in any other case. According to him, in the present case the quantity of contraband (poppy husk) recovered from the possession of the appellant is much below the commercial quantity. Learned counsel, therefore, prays that keeping in view the fact that the appellant has to support her family and the quantity of contraband recovered from her is much below the commercial quantity, the sentence be reduced to the period already undergone by her.

Learned State counsel submits that in case conviction of the 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 parties.

Briefly, the prosecution case runs thus:

On 10.5.2013, ASI Wakil Singh alongwith other police officials reached near gate of Bhagat Singh College. One lady having a plastic bag in her hand was seen coming from opposite side. On seeing the police party, she got perplexed and tried to turn back. On suspicion, said ASI with the help of other police officials apprehended her, who disclosed her name as Jaspal Kaur @ Pal (petitioner herein). ASI apprised her about her legal right to get search of bag in the presence of some Gazetted Officer or a Magistrate but she reposed confidence in ASI Wakil Singh. On search, poppy husk was recovered, out of which two samples of 250 grams each were separated and all the poppy husk

was parceled separately and sealed. Accused was arrested. After completion of investigation and on receipt of report of chemical examiner, the accused was sent up for trial.

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

To substantiate its case against the accused/appellant the prosecution examined as many as five witnesses.

The statement of accused under Section 313 Cr.P.C. was recorded, wherein the incriminating evidence available on record was put to her. She refuted the incriminating circumstances and pleaded false implication. She did not examine any witness in her defence.

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

On a 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 her. 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 lady and has already faced agony of protracted trial.

Keeping in view facts and circumstances of the case, as also the fact that the appellant is a lady of about 51 years of age, I deem it fit to reduce her substantive sentence to a period three months. However, the fine imposed by the trial court shall remain intact. Ordered accordingly.

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

March 18, 2016
'Rajpal'

(RAJAN GUPTA)
JUDGE