

Criminal Appeal No.S-5185-SB of 2015 (O&M)

Date of decision: 26th February, 2016

Banso

...Appellant

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Ashwani Bhardwaj, Advocate,
for the appellant.

Mr. Varun Sharma, AAG, Punjab,
for the respondent(s)-State.

INDERJIT SINGH, J.

Feeling aggrieved against the judgment of conviction and order of sentence dated 01.08.2008, passed by the learned Judge, Special Court, Nawanshahar, vide which the appellant has been convicted and sentenced to undergo rigorous imprisonment for a period of 06 months and to pay a fine of Rs.2,000/- and in default of payment of fine to further undergo rigorous imprisonment for a period of 01 month under Section 13/15 of the Narcotic Drugs & Psychotropic Substances Act, 1985, the appellant has preferred the instant appeal.

At the time of arguments, learned counsel for the appellant did not dispute the concurrent findings of the learned Court below regarding conviction. He contended only on the point of reduction of sentence.

Notice of motion only qua quantum of sentence was issued.

On the asking of the Court, Mr. Varun Sharma, AAG,

Punjab, accepted notice on behalf of respondent-State and contested the instant appeal.

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

From the record, this Court finds that the challan against the appellant-accused was presented under Section 15 of the Narcotic Drugs & Psychotropic Substances Act, 1985 in case FIR No.160 dated 30.05.2004, registered at Police Station City Nawanshahar, on the allegations that she was apprehended on 30.05.2004 by the police party headed by ASI Gurmukh Singh and on search of the bag, carried by her, five kilograms poppy husk was recovered which was taken into police possession after preparing the sample and sealing the parcel(s). Ruqa was sent to the police station on the basis of which FIR was registered. Statements of witnesses were recorded.

During trial, the accused also made confessional statement and the learned Judge, Special Court, Nawanshahar, convicted and sentenced her to undergo rigorous imprisonment for a period of 06 months and to pay a fine of Rs.2,000/- and in default of payment of fine to further undergo rigorous imprisonment for a period of 01 month under Section 15 of the Narcotic Drugs & Psychotropic Substances Act, 1985.

As per custody certificate, filed by learned State counsel, the appellant has already undergone five months and 11 days of actual sentence.

Keeping in view the facts that the appellant has already

undergone the substantial period out of actual sentence; she is a poor lady and is suffering from the criminal proceedings since 2004, the sentence is reduced to the period already undergone by her. Appellant Banso, who is in custody, be released forthwith if her custody is not required in connection with any other case, subject to payment of fine, if already not paid.

Accordingly, the instant appeal stands partly allowed.

26th February, 2016
mamta

(INDERJIT SINGH)
JUDGE