

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

CRA-S-1455-SB-2007 (O&M)

Date of decision-10.03.2017

Mani Ram

...Appellant

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. B.S.Saroha, Advocate,
for the appellant.

Mr. Naveen Kaushik, Addl.A.G, Haryana.

JITENDRA CHAUHAN, J. (Oral)

The present appeal is directed against the judgment and order dated 12.05.2007/16.05.2007, passed by Additional Sessions Judge, Hisar (Fast Track Court) vide which the appellant was convicted under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act') and sentenced to undergo rigorous imprisonment for five years with fine of Rs.2,000/- with default stipulation.

The appellant has been convicted on the allegations that he was found in conscious possession of 04 kg 800 grams of poppy husk.

Learned counsel for the appellant states that he does not challenge the judgment of conviction and prays that the present appeal be treated as a mercy appeal and take a lenient view in the matter of sentence as the appellant in the last approximate twelve years has not repeated the offence. The appellant has been facing agony of criminal proceedings since

the year 2005. He is the only bread earner in the family. He is not involved in any other case. Out of the total sentence of five years he has already undergone actual sentence of 08 months.

Though no challenge has been laid to the judgment of conviction, still this Court has scanned the entire evidence and finds that the prosecution has successfully proved its case against the accused. There are no lacunae in the prosecution evidence. The chain of link evidence is complete. The case of the prosecution has been proved by PW-4/Bhagwan Dass, ASI which is further corroborated by the testimony of PW-5 SI Rohtash Singh. The case property remained intact throughout. There are no discrepancies in the statements of the witnesses. Consequently the judgment of conviction is upheld.

Now reverting to the quantum of sentence, taking into consideration the mitigating circumstances that the appellant has been facing the agony of criminal proceedings for the last 12 years; he is the sole bread earner of his family, he is not involved in any other case and he has already undergone actual sentence of 08 months out of substantive sentence of five years, this Court feels that ends of justice will be squarely met in case the sentence of the accused is reduced to the period already undergone, however, the same is subject to payment of ₹50,000/- in favour of the State towards costs of litigation within a period of three months from today. The amount shall be deposited before the trial Court. It is made clear that if the amount is not paid within the stipulated period, the present appeal shall be deemed to be dismissed without any notice.

Allowed to the extent indicated above.

(JITENDRA CHAUHAN)
JUDGE

March 10, 2017
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No