

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

Crl. Appeal No.S-1304-SB of 2016 (O&M)
Date of Decision: March 14, 2017

Kiran Kaur

...Appellant

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Navjot Singh, Legal Aid Counsel
for the appellant.

Mr.K.S.Aulakh, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present appeal has been filed by the appellant against State of Punjab, challenging the judgment of conviction and order of sentence dated 22.03.2016 passed by learned Judge, Special Court, Sangrur, whereby the appellant was held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of 10 months and to pay fine of ₹5,000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of one month under Section 15(b) of the NDPS Act.

The brief facts of the prosecution case as noted down in the judgment passed by learned Judge, Special Court, Sangrur, are as under:-

“1. The accused referred to above is facing the trial for commission of offence punishable under Section 15 of the Narcotic Drugs & Psychotropic Substances, Act, 1985, on the allegations that on 16.12.2012, at about 12:30 P. M., in the area of village Ram Nagar Chhanna, the accused was found in conscious possession of 15 Kilogram Poppy Husk, without any

valid permit or license.”

On presentation of challan against accused-appellant , copies of challan and other documents were supplied to her under Section 207 Cr.P.C. Finding prima facie case, the accused-appellant was charge-sheeted under Section 15(b) of the NDPS Act, to which she pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 Head Constable Ram Kumar, PW-2 Head Constable Paramjit Singh, PW-3 ASI Malkiat Singh, PW-4 Retired Inspector Gurcharan Singh and PW-5 ASI Gulshan Singh.

At the close of prosecution evidence, the accused-appellant was examined under Section 313 Cr.P.C. She was confronted with the evidence of the prosecution and she denied the correctness of the evidence and pleaded her innocence and false implication.

No witness was examined in defence.

The learned trial Court, after appreciation of the evidence, convicted and sentenced the accused-appellant as stated above.

At the time of arguments, learned counsel for the appellant did not dispute the findings regarding conviction and only prayed for reduction of sentence of the appellant. Learned counsel for the appellant contended that 15 kgs. of poppy husk has been recovered from the accused-appellant, which falls under non-commercial quantity. He also contended that the appellant is suffering from criminal proceedings since 2012. He further contended that the appellant is poor person, labourer and has a six year old girl. Learned counsel for the appellant next contended that appellant has

already undergone 2 months and 15 days of actual sentence.

On the other hand, learned State counsel argued that case of the prosecution has been duly proved by the PWs. There is nothing on the record to show false implication of the accused in the present case. He next argued that PWs have consistently deposed regarding the recovery from the accused. Learned State counsel, therefore, argued that there being no merit, the present appeal should be dismissed.

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

In view of the evidence, I find that the prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt. Therefore, the judgment of conviction dated 22.03.2016 passed by learned Judge, Special Court, Sangrur, is correct, as per law and does not require any interference from this Court.

However, keeping in view the facts and circumstances of the present case and in view of the fact that appellant is stated to be poor person, labourer and has a six year old girl to look after and is suffering from long protracted criminal proceedings since 2012 i.e. for the last about 5 years and further in view of the fact that appellant has already undergone actual sentence of 2 months and 15 days till 23.09.2016 and that the recovery from the accused-appellant falls under non-commercial quantity i.e. 15 kgs. of poppy husk, the sentence imposed upon the appellant is reduced to the sentence already undergone by her. However, the sentence of fine and in default thereof, shall remain the same. The appellant is directed to pay the fine within one month from the date of receiving the certified

copy of the order, if already not paid, otherwise, the trial Court is directed to

take necessary action as per law. As argued, fine has already been paid.

Accordingly, present criminal appeal stands partly allowed.

Since, appellant Kiran Kaur is on bail, her bail/surety bonds stand discharged.

March 14, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No