

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

Crl. Appeal No.S-187-SB of 2016 (O&M)
Date of Decision: February 01, 2017

Jagtar Singh alias Kala

...Appellant

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.P.S.Sekhon, Advocate
for the appellant.

Mr.K.S.Aulakh, Asstt. Advocate General, Haryana
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 24.11.2015 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 35 months and to pay fine of ₹16,000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of eight months 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(b) of the Narcotic Drugs & Psychotropic Substances, Act, 1985, on the

allegations that on 12.01.2013, at about 03.30 P.M., in the area of village Ladda, the accused was found in conscious possession of 35 Kilogram Poppy Husk, without any valid permit or licence. ”

On presentation of challan against accused-appellant, copies of challan and other documents were supplied to him 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 he pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 SI Surinderpal Singh, PW-2 Head Constable Gurtej Singh, PW-3 Head Constable Dhanwinder Singh, PW-4 Head Constable Pinder Pal Singh and PW-5 DSP Gurdev Singh.

At the close of prosecution evidence, the accused-appellant was examined under Section 313 Cr.P.C. He was confronted with the evidence of the prosecution and he denied the correctness of the evidence and pleaded himself as innocent and his 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 35 kgs. of poppy husk has been recovered from the accused-appellant, which falls under non-commercial quantity. The appellant is suffering from criminal proceedings since 2013. He further contended that the appellant is

first offender, poor person, young man of 33 years and only bread earner of

the family and even, no other case has been registered afterwards. He further contended that appellant has already undergone 7 months and 24 days of actual sentence upto 25.04.2016.

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 24.11.2015 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 first offender, poor person, young man of 33 years, only bread earner of the family and is suffering from long protracted criminal proceedings since 2013 i.e. for the last about four years and further in view of the fact that appellant has already undergone actual sentence of 7 months and 24 days upto 25.04.2016 and keeping in view the fact the recovery from the accused-appellant falls under non-commercial quantity i.e. 35 kgs. of poppy husk, the sentence imposed upon the appellant is reduced to the sentence already undergone by

him. 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.

Accordingly, present criminal appeal stands partly allowed.

Since, appellant Jagtar Singh alias Kala is on bail, his bail/surety bonds stand discharged.

February 01, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No