

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

Crl. Appeal No.S-1175-SB of 2017 (O&M)

Date of Decision: May 10, 2017

Jangir Singh alias Pamma

...Appellant

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Siddharth Gupta, Advocate
for the appellant.

Mr.J.S.Bhullar, 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 03.12.2016 passed by learned Judge, Special Court, Bathinda, whereby the appellant was held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay fine of ₹10,000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of two months under Section 15 of the NDPS Act.

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

“2. Briefly stated the facts of the FIR are that on 25.4.2013 ASI Jagdeep Singh along with HC Gurmeet Singh, HC Nishan

Singh and PHG Babu Singh on a private vehicle after joining Gurpreet Singh son of Iqbal Singh from bus stand of Bibi Paro, Phul were going towards village Sidhana, in connection with patrolling and checking of suspected persons. When the police party reached 300 yards ahead on the link road towards village Mehraj, the accused was noticed coming from the side of village Mehraj while carrying a plastic bag on his head, who on seeing the police party threw the bag and turned towards canal minor on his left hand side. On suspicion, ASI Jagdeep Singh got stopped the police vehicle and apprehended the accused with the help of other police officials. On asking, the accused disclosed his name as Jangir Singh son of Maingal Singh, r/o village Harnam Singh Wala. Due to fall the mouth of the plastic bag got opened and poppy husk was visible in the same. 100 grams of poppy husk was taken out as sample and a parcel was prepared. The remaining on weighing came to be 15 Kilos 150 grams, which was also converted into a separate parcel. Both the parcels were sealed by ASI Jagdeep Singh with his seal bearing impression JS. Sample seal was separately prepared and seal after use was handed over to independent witness Gurpreet Singh. Both the parcels were taken into police possession vide separate recovery memo, attested by the witnesses. From personal search of the accused, nothing was recovered. Ruqa was sent to the police station through Constable Nishan Singh on the basis of which FIR under Section 15 of NDPS Act was registered against the accused. Site plan of place of recovery was prepared. Statements of the witnesses were recorded. On return to police station, he locked the accused in the police lock up and retained the case property in his own possession. On 26.4.2013 accused along with case property was produced before the court. The accused was remanded to judicial custody and case property was deposited in the NDPS godown. On 14.5.2013 the sample was sent to the chemical examiner, Kharar through Constable Kuldeep Singh. The chemical report was obtained. After completion of the investigation, the challan against the accused was presented in the Court, where the copies of relevant documents were supplied to the accused, as provided under Section 207 of Code of Criminal Procedure.”

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 of the NDPS Act, to which he pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW1 ASI Jagdeep Singh, Investigating Officer, PW2 Head Constable Gurmit Singh, PW3 Constable Kuldeep Singh and PW4 ASI Sadhu Singh (Retired).

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 in the present case. In defence, accused examined DW-1 Gurpreet Singh, DW-2 Sourj Singh.

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. 250 grams of poppy husk has been recovered from the accused-appellant, which falls under non-commercial quantity. He also contended that the appellant is poor person and suffering from criminal proceedings since 2013. Learned counsel for the appellant next contended that appellant has already undergone 6 months and 9 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 03.12.2016 passed by learned Judge, Special Court, Bathinda , 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 and suffering from long protracted criminal proceedings since 2013 i.e. for the last about 4 years and further in view of the fact that appellant has already undergone actual sentence of 6 months and 9 days and keeping in view the fact the recovery from the accused-appellant falls under non-commercial quantity i.e. 15 kgs. 250 grams 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.

Accordingly, present criminal appeal stands partly allowed.

Appellant Jangir Singh alias Pamma, who is in custody, be set at liberty forthwith, if his custody is not required in connection with any other case, subject to payment of fine, if already not paid.

May 10, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No