

**IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH**

**CRA No. S-2110-SB of 2016 (O&M)**

**Date of Decision:15.09.2017**

**Nishan Singh @ Nishan**

**.....Appellant**

**versus**

**State of Punjab**

**.....Respondent**

**Coram: Hon'ble Mr. Justice Arvind Singh Sangwan**

**Present:** Mr.H.S.Randhawa, Advocate for  
Mr.A.P.S.Sandhu, Advocate for the appellant.  
Mr.Randeep Singh Khaira, Assistant Advocate  
General, Haryana.

**\*\***

**Arvind Singh Sangwan, J.**

Appellant had faced trial in FIR No. 122 dated 1.5.2013 registered at Police Station Civil Lines, District Amritsar under Section 21 of the Narcotic Drugs and Psychotropic Substances Act ('the Act' for short). Trial Court vide judgment/order dated 5.3.2016 convicted the appellant for commission of offence punishable under Section 22 of the Act, and sentenced to undergo rigorous imprisonment for one and a half years and to pay a sum of ₹5000/- as fine and, in default of payment of fine, to further undergo rigorous imprisonment for a period of two months. Hence, the present appeal by the accused-appellant.

As per the prosecution case, appellant was found in possession of 190 gram of intoxicant powder containing Narcotic Drugs and Psychotropic Substance Dextropropoxyphene without any permit or licence.

Learned counsel for the appellant has placed reliance on the judgment of this Court in **Balvinder Singh vs. State of Haryana** 2012(2) RCR(Criminal) 458, wherein it was held that the contraband recovered from the accused does not fall within the definition of commercial quantity and the ends of justice would be best met if the substantive sentence of imprisonment be reduced to that already undergone by him.

During the course of arguments, learned counsel for the appellant has not challenged the conviction of the appellant under Section 22 of the Act as ordered by the Trial Court but has submitted that the sentence qua imprisonment of the appellant be reduced to the period already undergone by him. Learned counsel for the appellant has further submitted that the appellant has old parents who are dependent upon him and he is not a previous convict. In support of his arguments, learned counsel has relied upon the judgment in **Mukesh vs. State of M.P.** 2015(1)RCR (Criminal) 251 where in Hon'ble the Supreme Court has reduced the sentence to already undergone.

A perusal of the custody certificate of the appellant, placed on record reveals that the appellant has undergone more than ten and a half months of actual sentence and is not involved in any other criminal case. Appellant has been facing criminal proceeding since the year 2013. Moreover, recovery of 190 gram intoxicant powder effected from the possession of the accused falls in the ambit of non-commercial quantity.

Keeping in view the submissions made by learned counsel for the appellant, it would be just and expedient to reduce the sentence qua imprisonment of the appellant to the period already undergone by him.

Accordingly, the conviction of the appellant under Section 22 of the Act is maintained. However, the sentence qua the imprisonment of the appellant is reduced to the period already undergone by him.

Appeal stands disposed of accordingly.

**(ARVIND SINGH SANGWAN)**  
**JUDGE**

**September 15, 2017**  
arya

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No