

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

CRA-S-578-SB-2010

Date of decision:8.12.2017

Krishna Devi

...Appellant

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr. S.S. Rana, Advocate
for the appellant.

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J.

Krishna Devi, an accused in FIR No.631 dated 6.11.2003 for the offence under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as '**the Act**') registered with Police Station City, Panipat faced trial by Presiding Officer, Special Court, Panipat on the allegations that on 6.11.2003 at about 6:30 p.m. in the area of outer gate of bus stand, Panipat, she was found in possession of 24 kgs. of poppy husk. She was arrested at the spot. After registration of the formal FIR, the matter was investigated. After completion of investigation and other formalities, she had been challaned. After framing of charge for the offence under Section 15 of the Act, she faced the trial during the course of which, the prosecution adduced evidence. Thereafter, her statement under Section 313 Cr.P.C. was recorded. The accused did not lead any evidence in defence.

After hearing arguments, learned trial Court vide judgment and order dated 3.10.2008 convicted the accused for the offence under Section 15 of the Act and sentenced her to undergo rigorous imprisonment for five years and to pay a fine of ₹10,000/- and in default thereof to further undergo simple imprisonment for a period of two months.

Feeling dissatisfied with the said judgment of conviction and order of sentence, the accused has approached this Court by way of filing of the present appeal, which came up for hearing on 8.3.2010 when it was admitted and recovery of fine was ordered to be stayed during pendency of the appeal.

I have heard learned counsel for the appellant-accused-convict and learned Assistant Advocate General for the State of Haryana, besides going through the records.

At the very outset, learned counsel for the appellant stated that he does not challenge the impugned judgment on the point of conviction but his prayer is only regarding the sentence part. He has stated that the appellant is a woman aged about 50 years and has got six children to look after; that her husband is behind bars and for the reason the children are left unattended, besides that she is a poor woman; that she has already undergone a period of two years, two months and twenty seven days of total sentence including remissions, as such, a lenient view in the matter be taken.

As per the custody certificate filed by the State counsel, these facts stand corroborated. Though the appellant is shown to be involved in a few other cases but therein she is stated to have undergone the sentence

imposed upon her.

Thus, considering the facts and circumstances narrated by the learned counsel for the appellant and keeping in view the fact that the recovery effected does not amount to commercial quantity and no minimum sentence is prescribed under the Act as regards recovery of non-commercial quantity, the ends of justice would be squarely met if the appellant is sentenced to imprisonment already undergone by her, while in custody in the present case. However, the sentence regarding the fine part is kept as intact.

Therefore, the impugned judgment is upheld as regards conviction part qua the appellant. However, as far sentence part is concerned, the same is modified and the appellant is sentenced to imprisonment already undergone by her as mentioned supra. However, the sentence regarding the fine part is kept as intact.

As such the appeal challenging the impugned judgment stands disposed of with above modification in sentence.

The appellant – Krishna Devi who is stated to be in custody is ordered to be released forthwith on payment of fine, if not required in any other case.

Necessary intimation be sent to the quarter concerned.

8.12.2017
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : No / Yes

Whether reportable : No / Yes