

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

**Criminal Appeal No.S-160-SB of 2017 (O&M)
Date of Decision: April 26, 2017**

Kabal Singh @ Pappu

.....APPELLANT(s).

VERSUS

State of Punjab

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Naresh Kaushik, Advocate
for the appellant (s).

Mr. Jashanpreet Singh, AAG Punjab.

SURINDER GUPTA, J.

The appellant was convicted by the trial Court for the offence punishable under Section 22 of Narcotics Drugs and Psychotropic Substances Act, 1985(for short-NDPS Act) and sentenced to undergo rigorous imprisonment for five years and to pay a fine of ₹50,000/-. In default of payment of fine, he was directed to further undergo rigorous imprisonment for two months.

As per case of the prosecution, appellant was apprehended by the police of Police Station Lopoke, Amritsar Rural on 04.04.2013 and from his possession 480 grams of intoxicating powder, which was later on found to be Dextroxyphenone, was recovered.

Learned counsel for the appellant has confined his submission regarding taking lenient view on the quantum of sentence without challenging the conviction of appellant on merits for the offence punishable under Section 22 of NDPS Act as recorded by the trial Court. He has

submitted that the appellant is not a previous convict. He is only bread winner of his family which comprises of his wife, four children and old age mother, who were all dependent on him as his father has already died. The sentence awarded by the trial Court is on higher side. As per custody certificate, he has undergone about 11 months of imprisonment. He has prayed for reduction of sentence of the appellant for the period already undergone by him.

Custody certificate placed on file shows that petitioner has undergone ten months twenty two days of imprisonment as on 25.04.2017. He was not a previous convict. The recovery of contraband from the appellant was of less than commercial quantity. Keeping in view the above facts, I am of the opinion that the interest of justice shall be fully served if the substantive sentence of the appellant as awarded by the trial court is reduced to rigorous imprisonment for two years.

As a sequel of my above discussion, this appeal is partly allowed. Conviction of the appellant for the offence punishable under Section 22 of NDPS Act as recorded by the trial Court is maintained. However his substantive sentence is reduced from rigorous imprisonment for five years to rigorous imprisonment for two years, maintaining the sentence of fine imposed by the trial Court.

Copy of this order be sent to the Superintendent, Central Jail, Amritsar.

April 26, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No