

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CRA-S-1694-SB of 2017 (O&M)

Date of Decision:12.10.2017

Kushal Singh

.....Appellant

versus

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice Arvind Singh Sangwan

Present: Mr.Parminder Singh,Advocate for the appellant.
Ms.Rajni Gupta, Senior Deputy Advocate
General, Punjab

Arvind Singh Sangwan, J.

Appellant had faced trial in FIR No. 97 dated 2.2.2016 registered at Police Station Civil Lines, Karnal under Section 18 of the Narcotic Drugs and Psychotropic Substances Act,1985 ('the Act' for short). The trial Court vide judgment dated 25.10.2016 convicted the appellant for commission of offence punishable under Section 18 of the Act, and sentenced him to undergo two years rigorous imprisonment and to pay a sum of ₹15,000/- as fine and, in default of payment of fine, to further undergo rigorous imprisonment for a period of four months, vide order dated 26.10.2016. Hence, the present appeal by the accused-appellant.

As per the prosecution case, appellant was found in conscious possession of 300 grams opium without any permit or licence.

During the course of arguments, learned counsel for the appellant has not challenged the conviction of the appellant under Section

18 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 is a poor man and is the only person to look after his family and confined in jail. 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.

Learned counsel for the appellant has also 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.

A perusal of the custody certificate of the appellant, placed on record reveals that the appellant has undergone about one year six months and five days of actual sentence and is not involved in any other criminal case. Appellant has been facing criminal proceeding since the year 2016. Moreover, recovery 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 18 of the Act is maintained. However, the sentence qua the imprisonment of

the appellant is reduced to the period already undergone by him Admittedly, the appellant is a poor person and is not in a position to deposit the fine amount. Keeping in view the said fact and the fact that the appellant has already undergone of substantial period of sentence, while upholding the sentence of fine, the condition to deposit such fine shall stand waived off. Appellant-accused, who is in custody, be set at liberty forthwith, if not required in any other case.

Appeal stands disposed of accordingly.

(ARVIND SINGH SANGWAN)
JUDGE

October 12, 2017
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No