

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CRA No. S-1956-SB of 2017 (O&M)

Date of Decision:26.09.2017

Sher Singh

.....Appellant

versus

State of Punjab

.....Respondent

Coram: Hon'ble Mr. Justice Arvind Singh Sangwan

Present: Mr.Jatinder Pal Singh, Advocate for the appellant.
Mr.Randeep Singh Khaira, Assistant Advocate
General, Punjab

Arvind Singh Sangwan, J.

Appellant had faced trial in FIR No. 102 dated 30.4.2015 registered at Police Station Sadar, Ferozepur under Section 15 of the Narcotic Drugs and Psychotropic Substances Act ('the Act' for short). Trial Court vide judgment dated 3.5.2017 convicted the appellant for commission of offence punishable under Section 15 of the Act, and vide order dated 4.5.2017, he was sentenced to undergo rigorous imprisonment for a period of one year and to pay a sum of ₹ 2000/- as fine and, in default of payment of fine, to further undergo rigorous imprisonment for a period of one month. Hence, the present appeal by the accused-appellant.

As per the prosecution case, appellant was found in possession of 12 kilogram of poppy husk 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 15 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 the sole bread earner and has three children besides wife. The brother of the appellant had expired and his family is also 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 six months of actual sentence. Appellant has been facing criminal proceeding since the year 2015. Moreover, recovery of 12 kilogram poppy husk 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

15 of the Act is maintained. However, the sentence qua the imprisonment of the appellant is reduced to the period already undergone by him. Appellant-accused, who is in custody, be set at liberty forthwith, if not required in any other case, subject to deposit of fine, if not already deposited.

Appeal stands disposed of accordingly.

(ARVIND SINGH SANGWAN)
JUDGE

September 26, 2017
arya

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No