

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-3036-SB-2017 (O&M)
Date of decision: 20.11.2017

Bhajan Singh

... Petitioner

22Vs

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. D.N.Ganeriwala Advocate with
Mr. Mehak Sharda, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

Arvind Singh Sangwan, J.(Oral)

Parties are ad idem that main appeal be heard on merit and decided.

Learned counsel for the appellant has not contested the conviction of the appellant and prayed that the sentence awarded to the appellant may be reduced to the sentence he has already undergone.

Brief facts of the case are that on 13.05.2014 the police party had a patrol duty. On the basis of suspicion, the police apprehended the appellant and on his search, 9 kgs of poppy husk was recovered from two bags. On completion of the investigation at the spot, the appellant was produced before the Judicial Magistrate and thereafter the investigation was carried out and on submission of challan under Section 173(2) Cr.PC, the case was committed to the Court of Session. The appellant was charge-sheeted under Section 15/16/61, 85 of NDPS Act, 1985.

After the prosecution evidence was completed, the appellant

was held guilty of the offence punishable under Section 15-B of the Act vide judgment of conviction dated 03.08.2017 and later on vide order of sentence dated 05.08.2017, the appellant was ordered to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.10,000/-.

This appeal has been filed challenging the judgment of conviction dated 03.08.2017 and order of sentence dated 05.08.2017 passed by the Addl. Sessions Judge, Sirsa.

Learned counsel for the appellant has submitted that the appellant is not a previous convict and is a first offender. He is a poor man and has three children – one daughter and two sons. His father has died and his mother is an old aged lady and does not maintain good health and the appellant is the only earning member in the family. It is further submitted that the appellant was on bail during the trial from 12.06.2014 to 04.08.2017 and never misused the concession of bail and during this period, he was not involved in any other case. The appellant has already undergone the agony of trial for a period of 3 years and as on today, he has undergone the actual sentence of 04 months and 17 days out of total sentence of 01 year. Learned counsel for the petitioner has relied upon the decision of this Court passed in ***Tarsem Singh vs. State of Punjab, 2017(2) RCR (Crl.) 109*** where the sentence of the appellant awarded by the trial Court has been reduced where the recovery of contraband is of non-commercial quantity.

Learned counsel for the State does not dispute the fact that the appellant was on bail from 12.06.2014 to 04.08.2017 and is not involved in any other case.

After hearing learned counsel for the parties and considering the fact that the appellant is the first offender; he has undergone substantive

sentence of 05 months and 17 days including remission; he is the only bread earner of the family, he has not misused the concession of bail for a period of three years, the present appeal is partly allowed.

While upholding the judgment of conviction dated 03.08.2017 passed by the trial Court, the sentence of RI for one year and fine of Rs.10,000/- awarded by the trial Court is reduced to the sentence already undergone by the appellant. He shall be released forthwith, if not required in any other case.

20.11.2017
sonia

(Arvind Singh Sangwan)
Judge

1. Whether speaking/non-speaking? Yes
2. Whether reportable? Yes/No