

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

**Crl. Appeal – S – 3367 – SB of 2017
Date of decision: - 19.12.2017**

Jaspreet Singh @ Jassa

..... Appellant

versus

State of Punjab

.....Respondent

CORAM: - HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: - Mr. Ishaan Pasricha, Advocate, for the appellant.

Mr. Amandeep S. Gill, Sr. DAG, Punjab

ARVIND SINGH SANGWAN, J (ORAL)

Prayer in the present appeal is to set aside the judgment dated 10.07.2017 passed by Special Judge, Kapurthala, vide which the appellant was convicted for one year rigorous imprisonment and to pay a fine of Rs.5,000/- and in default thereof to further undergo simple imprisonment for one month.

Brief facts of the case are that on 18.07.2014, ASI Gurjaswant Singh alongwith police officials was on patrol duty and one motor-cycle was spotted coming from the side of village on which two persons were sitting. On suspicion, they were apprehended. The driver of the motor-cycle disclosed his name as Kirpal Singh (since deceased) and the pillion rider disclosed his name as Jaspreet Singh (appellant). On an offer given by ASI that they have a right to be searched before a Gazetted Officer/SDM, both of them reposed confidence in ASI and after preparing their consent memos, on being searched, intoxicant powder was recovered from the right side

pocket of the accused. Total 40 grams powder was recovered. Out of which 10 grams was separated and converted into sealed parcel and sent to FSL. After completion of investigation the accused persons were arrested. The sample sent to the FSL as per report contained Alprazolam.

After recording the prosecution evidence, the trial Court convicted the appellant under Section 22 of the NDPS Act and sentenced him to undergo 01 year rigorous imprisonment and to pay a fine of Rs.5,000/- with the default clause as stated above.

Learned counsel for the appellant at the very outset submitted that he does not intend to challenge the conviction of the appellant and has only prayed for reduction of the sentence, already undergone by the appellant. It is submitted on behalf of the appellant that the appellant is not a previous convict; he is first offender; he has undergone 07 months and 25 days of actual sentence out of 01 year rigorous imprisonment; he was on bail during the trial and has never misused the concession of bail for a period of three years and never repeated the offence. It is further submitted that the appellant is a young man aged about 22 years and there is a possibility of improvement in his coming life. Counsel for the appellant has relied upon judgment of this Court passed in **Tarsem Singh Vs. State of Punjab, 2017(2) R.C.R (Criminal) 109** wherein in similar circumstances it has been held that where the convict is a first offender and is suffering from long protracted criminal proceedings and has undergone substantive sentence and the recovery from accused falls under noncommercial quantity, the sentence imposed upon the appellant can be reduced to the sentence already undergone by him.

Learned State counsel has filed the custody certificate dated 18.12.2017 today in Court and the same is taken on record. As per the custody certificate, the appellant has undergone 07 months and 25 days of actual sentence and is not involved in any other case.

After hearing the counsel for the parties, I find merit in the present appeal. Considering the fact that the appellant is a young person aged about 23 years and can improve his future life, in view of the fact that from the year 2014 to 2017, he has not repeated any such offence and also in view of the fact that he has faced the protracted trial since 2014 and has undergone substantive sentence of 07 months and 25 days, out of 01 year rigorous imprisonment awarded by the trial Court and the recovery from appellant is of non-commercial quantity, while upholding the conviction of the appellant, the sentence awarded by the trial Court is reduced to already undergone by the appellant. However, the sentence imposed with regard to the fine of Rs.5000/- is upheld. The appellant is granted 01 months time to deposit the fine with the trial Court.

With the aforesaid modification, this appeal is disposed of. The appellant shall be released forthwith if he is not required in any other case.

(ARVIND SINGH SANGWAN)
JUDGE

December 19, 2017
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>