

**IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH**

**CRA No. S-3505-SB of 2017 (O&M)**

**Date of Decision: 7.10.2017**

**Rupesh Kumar @ Kala**

**.....Appellant**

**versus**

**State of Punjab**

**.....Respondent**

**Coram: Hon'ble Mr. Justice Arvind Singh Sangwan**

**Present:** Ms.Sunita Punia, Advocate for the applicant-appellant.  
Mr.Amandeep Singh Gill, Senior Deputy Advocate  
General, Punjab

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**Arvind Singh Sangwan, J.**

Appellant had faced trial in FIR No. 58 dated 1.6.2016 registered at Police Station City Budhlada, District Mansa under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('the Act' for short). The trial Court vide judgment/order dated 5.9.2017 convicted the appellant for commission of offence punishable under Section 22 of the Act, and sentenced him to undergo two years rigorous imprisonment and to pay a sum of ₹5000/- 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 conscious possession of 510 tablets of "Almax-05" containing the salt "Alprazolam" (51 strips of tablets of Alprazolam, each of 10 tablets) 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 22 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 confined in jail and has no means to pay the fine. Appellant is the only bread earner of the family. 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 three months and seven 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 of 510 tablets of “Almax-05” containing the salt “Alprazolam” 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 22 of the Act is maintained. However, keeping in view the fact that the appellant is a poor person and is not in a position to pay fine of ₹5000/-, the same is remitted. 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.

Appeal stands disposed of accordingly.

**(ARVIND SINGH SANGWAN)**  
**JUDGE**

**October 07, 2017**  
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Whether speaking/reasoned: Yes/No  
Whether Reportable: Yes/No