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

CRA-S-3945-SB of 2014

Date of decision: May 11, 2017

Pardeep Mishra

.....Appellant

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Ms. Ravinder Kaur Manaise, Advocate for the appellant.

Mr. D.S. Virk, DAG Punjab.

A.B. CHAUDHARI, J (Oral)

Being aggrieved by the judgment and order dated 01.05.2014 passed by the learned Special Judge, Fatehgarh Sahib by which the appellant was convicted for offence punishable under Section 20 of the Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act') and was sentenced to undergo Rigorous Imprisonment for one year and fine of ₹10,000/-; in default of payment of fine, further undergo Rigorous Imprisonment of three months, the present appeal was filed by the appellant.

In support of the appeal, learned counsel for the appellant contended that the trial Court committed an error in convicting the appellant, though, there was no evidence against him. The conviction, is therefore, faulty. In the alternative, learned counsel for the appellant contended that the appellant has already undergone more than 7 months of

actual sentence and he is ready to pay a fine of ₹10,000/- and in addition further fine in the sum of ₹5,000/-. She contended that out of one year Rigorous Imprisonment, appellant had already undergone the major part of the sentence and therefore, the appeal should be allowed atleast to that extent.

Per contra, learned State counsel opposed the appeal and submitted that the trial Court has rightly found the appellant guilty of the offence for which he was convicted. He relied on the reasons recorded by the trial Court for buttressing his submissions. He prayed for dismissal of the appeal.

Having heard learned counsel for the rival parties, I find that the prosecution has proved its case beyond any doubt in so far as the recovery of 2.5 Kgs. charas from the appellant in bag concerned. Having gone through the reasons recorded by the trial Court, I do not find any fault with the findings of conviction by the trial Court. Hence, the conviction is required to be confirmed.

Next question is about sentence awarded to the appellant, i.e. total sentence of one year Rigorous Imprisonment and fine of ₹10,000/-. Since the appellant has already undergone 7 months 10 days of actual sentence and the appellant does not have any other case either pending or decided to his credit, in my opinion, there is no point in pushing the appellant again in jail for serving out remaining sentence. Instead the appellant can be asked to pay additional fine in the sum of ₹5,000/-. In that view of the matter, I am inclined to modify the sentence awarded to

the appellant. In the result, following order is passed:-

ORDER

- (i) CRA-S-3945-SB of 2014 is partly allowed;
- (ii) The impugned judgment and order of conviction of the appellant is confirmed;
- (iii) The impugned judgment and order of sentence of one year is set aside and modified to one which the appellant has already undergone;
- (iv) The appellant shall pay total fine of ₹15,000/- within a period of 12 weeks from the date of receipt of copy of this order, failing which the appellant shall further undergo sentence of one year Rigorous Imprisonment.

(A.B. CHAUDHARI)
JUDGE

May 11, 2017

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No