

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

Crl. Appeal No.S-947-SB-2017 (O&M)

Date of Decision: April 27, 2017

Ramesh

...Appellant

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. S.K. Gupta, Advocate, for the appellant.

Mr. Vikas Chopra, DAG, Haryana

Amol Rattan Singh, J. (Oral)

Learned counsel for the appellant submits that he does not challenge his conviction and simply seeks that the appellant being a first time offender, with only 5 k.gs. of poppy husk having been recovered from him, the sentence imposed upon him be reduced to the period already undergone by him.

The appellant has been convicted by the learned trial Court after he had been found to have been apprehended by the police party on 14.01.2015, while carrying 5 k.gs. of poppy husk in a bag, out of which samples had been taken and were found by the chemical examiner also to be that of the aforesaid substance.

Hence, in the light of the evidence led by the prosecution, the learned trial Court (Judge, Special Court, Karnal) had found the appellant guilty of having committed an offence punishable under Section 15 of the NDPS Act, 1985 and thereafter, had sentenced him to one years' rigorous imprisonment and had also imposed a fine of Rs.5,000/- upon him, in

default of which he is to further undergo imprisonment for a period of one month.

The appellant having accepted his conviction, it is to be seen as to whether, in terms of the statutory provisions, his sentence can be reduced to the period already undergone by him.

As per Section 15 (a) of the Act of 1985, imprisonment of up to one year is prescribed only where a small quantity of poppy husk/straw is found to be in possession of the convict and an imprisonment for a term up to 10 years has been prescribed where the quantity is more than small but less than commercial quantity [as per Section 15(b)]. In the present case, 5 k.gs. of poppy husk has been recovered from the appellant, which is more than 1 k.g., i.e. the notified quantity up to which it can be classified as small quantity but well below 50 k.gs., more than which would be the notified commercial quantity. However, he being a first time offender, as per the custody certificate filed by the learned State counsel in Court today, and having already undergone 3 months and 5 days of actual sentence, I consider it appropriate to dismiss his appeal by upholding his conviction for the commission of offence punishable under Section 15(b) of the NDPS Act, 1985, such conviction not being challenged, but by reducing his sentence to the period of imprisonment already undergone by him.

Consequently, on payment of the fine of Rs.5,000/- imposed upon the appellant by the learned trial Court, he would be released from

custody forthwith. However, if the fine is not paid by the appellant within 15 days from the date of receipt of a certified copy of this order, he would undergo the default imprisonment of one month, after which he would be released from custody.

Appeal disposed of in the above terms.

April 27, 2017
vcgarg

(Amol Rattan Singh)
Judge

Whether reasoned/speaking: Yes
Whether reportable: no