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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 1552/2014**

RAJESH KUMAR Appellant
Through: Mr. Sunil Mehta, Adv.

Versus

STATE (GOVT OF NCT OF DELHI) & ORS Respondents
Through: Mr. Amish Aggarwala, Adv.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

ORDER
% **26.07.2017**

CRL.A. 1552/2014

Aggrieved by the judgment dated 6th December, 2008 passed by the Special Judge, NDPS, New Delhi, whereby he has been convicted under Section 21(C) of the NDPS Act and sentenced to rigorous imprisonment for 12 years with fine of ₹1.20 lacs and in default of payment of fine to further undergo rigorous imprisonment for one year, appellant has preferred this appeal.

It appears that during the trial, appellant pleaded guilty and has been convicted and handed down the sentence as detailed above.

During the course of hearing of the present appeal, learned counsel for the appellant submits that appellant is not assailing his conviction on merits,

inasmuch as, he himself pleaded guilty before the trial court and that the appellant presses only for reduction of sentence. He further submits that the substantive sentence as well as sentence in default of payment of fine may be reduced to the period already undergone by the appellant. The appellant has already completed sentence of about 11 years. Reliance has been placed on Baldev Singh vs. State of Haryana 2016 CRI. L.J. 154, Krishika Lulla & Ors. vs. Shyam Vithalrao Devkatta & Anr. 2016 CRI. L.J. 160 and E. Edmand vs. Intelligence Officer, Narcotics Control Bureau, Chennai 2016 CRI. L.J. 2859. Appellant is in incarceration right from his arrest, that is, 2006. Custody certificate has been received from the Deputy Superintendent, Gurdaspur Jail where appellant is lodged; a perusal thereof shows that the same is dated 10th March, 2017. As per this certificate, appellant has completed total sentence of 10 years, 7 months and 4 days. Four months have passed since then; meaning thereby that the appellant has already completed sentence of more than 11 years.

Learned counsel for the respondent submits that appellant is involved in two other cases also. Learned counsel for the appellant submits that petitioner is in continuous custody right from 5th August, 2006. The other cases are shown to have been registered on 7th July, 2009 and 8th May, 2016.

He further submits that trial in those cases is still pending. Appellant is not a previous convict. He belongs to a poor family and is not in a position to pay the fine.

Keeping in mind the facts and circumstances of this case, substantive sentence of imprisonment as well as sentence awarded to him in default of payment of fine is reduced to the period already undergone by him. Appellant be released from the jail, if not required in any other case.

Appeal is disposed of in the above terms.

Crl. M.B. 319/2017

Disposed of as infructuous.

Crl. M.A. 2473/2017

By this application, respondent has sought permission to destroy the case property and representative samples as per the procedure prescribed in law. As per the respondent, 20.006 kg of heroin was recovered from the appellant and was seized by the respondent. Appellant has been convicted under Section 21(C) of the NDPS Act. Appeal has already been disposed of. Thus, case property is not required any further. Application has not been opposed. Accordingly, application is allowed and respondent is permitted to destroy the case property as well as the representative samples, in

accordance with law.

Application is disposed of.

A.K. PATHAK, J.

JULY 26, 2017

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