

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

CRA-S-1753-SB of 2004

DATE OF DECISION :- February 09, 2018

JAI BHAGWAN

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Saurabh Kapoor, Advocate for
Mr. Ashit Malik, Advocate for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

Accused-Jai Bhagwan was convicted by Judge Special Court, Karnal vide judgment dated 04.08.2004 for offence under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') and vide order dated 06.08.2004 he was sentenced to undergo rigorous imprisonment for a period of 1 ½ years and to pay a fine of Rs. 5000/- in default of payment of fine to undergo further rigorous imprisonment for a period of four months.

The allegation against the appellant as per prosecution story are that on 12.03.2002 when he was apprehended by the police party in area of village Dabri on the SYL Canal Bridge, Narwana Branch, he was found in possession of 600 gms of opium.

The accused-convict felt unsatisfied by the said judgment of conviction and sentence and has filed the instant appeal before this Court which was admitted on 13.09.2004 and his sentence was suspended vide order dated 11.10.2004.

I have heard learned counsel for the parties, besides going through the record.

Learned counsel representing the appellant-accused states that he does not challenged the impugned judgment as regards the conviction part but he wants to make submission with respect to the sentence. He contends that the appellant is a poor person and his entire family is dependent upon him for financial support, that he does not have any past criminal record and after being granted bail he has not indulged in any criminal activity.

Learned State counsel has placed on file the custody certificate of the appellant-accused showing that he has undergone the total sentence of six months and 12 days out of one year and six months of substantive sentence awarded to him. He is not shown to be involved in any other case. The recovery is stated to have been effected from him in the year, 2002 i.e. about sixteen years back. The recovery involved is not very substantial.

Therefore, in my view end of justice shall be adequately met if the appellant-accused is sentenced to imprisonment already undergone by him, as such the impugned judgment is upheld as regards the conviction part, whereas it is modified regarding the sentence part in as much as, the appellant-accused is sentenced to imprisonment already undergone by him in this case though the fine part remains intact. The appellant-accused is directed to deposit this amount of fine in the trial Court immediately and if it is not so done within a period of 15 days from today then the trial Court would take necessary action to get the recovery effected from the accused.

(H.S. MADAAN)
JUDGE

February 09, 2018

rashmi

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No