

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

**Criminal Appeal No.S-1833-SB of 2004 (O&M)
Date of Decision: August 27, 2018**

Sewa Singh

.....APPELLANT(s).

VERSUS

The State of Haryana

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Jagdish Manchanda, Advocate
for the appellant (s).

Mr. Deepak Grewal, DAG, Haryana.

SURINDER GUPTA, J.

This is appeal against the judgment of conviction dated 15.09.2004 and order of sentence dated 17.09.2004 whereby the appellant was convicted for the offence punishable under Section 18-C of Narcotic Drugs and Psychotropic Substances Act, 1985 and sentenced to undergo rigorous imprisonment for two years and to pay a fine of ₹7500/-. In default of payment of fine, to further undergo rigorous imprisonment for three months.

As per prosecution case, appellant was apprehended on 13.05.2001 by Inspector Gulzar Singh of CIA Staff, Karnal and on his personal search in accordance with law, two packets of 500 grams each containing opium were recovered from his possession.

Learned counsel for the appellant has not challenged the

conviction of the appellant on merits and has confined his submission only for taking lenient view on the quantum of sentence awarded to the appellant. He submits that as evident from the custody certificate, appellant is not a previous convict and even on his release after suspension of sentence in December, 2004, he was never involved in any such crime.

Learned State counsel has argued that the appellant was apprehended by the police of Police Station City Karnal with 1 kg of opium which falls in non-commercial quantity. The sentence prescribed for possession of non-commercial quantity of contraband is rigorous imprisonment upto 10 years and fine upto ₹1 lakh and learned trial Court on considering the quantum of sentence has rightly awarded him sentence of rigorous imprisonment for 2 years with fine of ₹7500/- which call for no interference.

As the learned counsel for the appellant has not challenged the conviction of the appellant, the same is upheld. Custody certificate of appellant produced on file, shows that he is not a previous convict and after his release on suspension of sentence in December, 2004, he was not found involved in any other case. This shows that appellant is leading peaceful life without repeating the crime as committed in this case. Out of sentence of rigorous imprisonment for two years awarded to him, the petitioner has undergone imprisonment of 10 months and 5 days.

Keeping in view the above facts and antecedents of appellant, submission of learned counsel for the appellant is accepted and the sentence awarded to the appellant is reduced from rigorous imprisonment for two years to the period of imprisonment already undergone by him. The

sentence of fine, however, is maintained. The amount of fine, if not already paid, be deposited with the trial Court/Chief Judicial Magistrate, Karnal within a period of 4 weeks, failing which the appellant be taken into custody to undergo the sentence awarded to him in default of payment of fine. The case property be disposed of as per rules.

August 27, 2018
Sachin M.

(SURINDER GUPTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>