

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRA-S-2288-SB of 2004 (O&M)

Date of decision : 26.2.2018

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Fauja Singh

.....Appellant

vs.

State of Punjab

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. J.B.S. Gill, Advocate for the appellant.

Mr. Rakeshinder Singh Sidhu, Assistant Advocate General,
Punjab.

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H. S. Madaan, J. (Oral)

Accused-appellant Fauja Singh was tried by Judge, Special Court, Hoshiarpur, for an offence under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred to as 'the NDPS Act'), on the allegations that on 23.10.2002 at about 9.00 A.M. In the area of river bridge of village Simbli, he was found in possession of 6 kgs of poppy husk. He was arrested in this case. After completion of investigation and other formalities, he was challaned. The accused was tried and was convicted for the offence under Section 15 of the NDPS Act, vide judgment dated 4.11.2004 and vide order of the even date, he was sentenced to

undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.1,000/-, in default of payment of fine to undergo further rigorous imprisonment for a period of one month.

Feeling dissatisfied with such judgment of his conviction and sentence, the accused-appellant has approached this Court by way of filing the present appeal.

Vide order dated 23.11.2004, the appeal was admitted. It is stated that the fine amount has since been paid when he was granted interim bail by the trial Court.

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

Learned counsel for the appellant at the very outset has stated that he does not challenge the impugned judgment on the point of conviction but wants make submissions as regards the sentence part. He has contended that the accused-convict is presently aged about 75 years; that he has already undergone about one month of imprisonment; that he is not involved in any other criminal case. Further more, the incident relates to the year 2002 i.e. more than 17 years back. The appellant has not indulged in any criminal activity during the intervening period, as such a lenient view in the matter be taken.

Learned State counsel has placed on file the custody certificate showing that the petitioner has undergone total sentence of 27 days of imprisonment, including remissions. He is not reflected to be involved in any other criminal case.

Keeping in view the facts and circumstances of the case, I

am of the considered view that ends of justice would be met adequately, if the appellant is sentenced to the imprisonment already undergone by him in this case.

Accordingly, the impugned judgment is upheld as regard the conviction part, however, the sentence is modified and the accused-convict is sentenced to the period already undergone by him, while the fine part is kept as intact.

With the abovesaid modification, the appeal stands disposed of.

26.2.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No