

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-2358-SB of 2004
Date of Decision: 31.07.2018

Bajrang

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ajay Chaudhary, Advocate
for Mr. R.S. Mamli, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

SURINDER GUPTA, J.(Oral)

This is appeal against judgment and order of conviction dated 24.11.2004/26.11.2004, vide which appellant-Bajrang was convicted for offence punishable under Section 18 of Narcotic Drugs and Psychotropic Substances Act, 1985 and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of ₹1000/-.

2. As per case of prosecution, appellant was apprehended by the police party headed by ASI Ram Singh of Police Station City Fatehabad in the area of old bus stand with co-accused, namely, Reshma, who was having a bag in her hand. On seeing the police party, she handed over her bag to appellant. Both were apprehended on the basis of suspicion. Investigating officer gave them offer to get their search conducted before a gazetted officer or a Magistrate but they reposed confidence in investigating officer. On search, the bag was found containing 400 gms. of opium.

3. Learned counsel for the appellant has not challenged the conviction of the appellant recorded by the trial Court. He has only confined

his submissions for leniency in the quantum of sentence awarded to appellant. He has argued that appellant was going with Reshma, who on seeing the police party handed over her bag to appellant and on search 400 gms. of opium was recovered from the appellant. The appellant is not a previous convict and was caught only because he was in the company of co-accused-Reshma. He has further submitted that as per custody certificate of appellant dated 31.07.2018, produced by learned State counsel, appellant has never indulged in any such activity or found involved in any case even after his conviction on 26.11.2004. The appellant has undergone 03 months and 04 days of imprisonment and keeping in view facts of the case, the period of sentence may be reduced to the sentence already undergone by him.

4. Learned State counsel has argued that the appellant was going with co-accused-Reshma. Though, she had handed over the bag in her hand to appellant on seeing the police party, yet this depicts that appellant was knowing contents of the bag and was accomplice in commission of crime with her.

5. Keeping in view facts as discussed above and antecedents of appellant, I am of the opinion that this appeal calls for taking a lenient view regarding quantum of sentence awarded to the appellant. Neither the appellant was involved in any case prior to registration of instant FIR nor after his conviction in the year 2004 he was found involved in any such case. A long time of 14 years has elapsed after the sentence of appellant was suspended and instead of sending him behind bars at this stage, sentence awarded to the appellant is modified and reduced to the sentence already undergone by him. However, sentence of fine is enhanced by

₹10,000/- over and above fine already imposed. The appellant will deposit the fine before the trial Court within a period of two weeks, failing which he will undergo sentence of three months for non-payment of fine.

As a sequel of my above discussion, this appeal is partly accepted.

Copy of this order be conveyed to all the concerned.

July 31, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***