

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

310

CRA-S-906-SB-2004

DATE OF DECISION :- February 08, 2018

Jasbir Singh

...Appellant

Versus

State of Punjab

...Respondent

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

Present: Mr. Sunny Singla, Advocate,
for the appellant.

Mr. Rakeshinder Singh Sidhu, AAG, Punjab.

Jasbir Singh an accused in FIR No. 178 dated 29.12.1998 under Section 18 of Narcotic Drugs & Psychotropic Substances Act, 1985 registered at Police Station Bhawanigarh, faced trial by Judge, Special Court, Sangrur, on the allegations that on 29.12.1998, when intercepted by police party headed by SI/SHO Sukhwinder Singh from Police Station, Bhawanigarh, he was carrying a bag in his right hand, when on being searched as per law was found to contain 600 grams of opium. He was arrested in this case and a formal FIR was registered and case was investigated. After completion of investigation and other formalities challan against him was filed before the Judge, Special Court Sangrur and formal charge for offence under Section 18 of NDPS Act 1985 was framed against the accused to which he pleaded not guilty and filed the present appeal

During the investigation the prosecution examined constable Jasvir Singh as PW-1, ASI Baljit Singh as PW-2, SI Sukhminder Singh as PW-3, SI Wassan Singh as PW-4 and DSP Gurtejinder Singh as PW-5.

Thereafter, the Additional Public Prosecutor tendered a report of chemical examiner and closed prosecution evidence.

Statement of accused was recorded under Section 313 Cr.P.C, in which all the incriminating circumstances appearing against the accused were put to him, but he denied the same. He pleaded that he is innocent and has been falsely involved in this case since his parents had a dispute Joginder Singh resident of Rajpura and SI Sukhminder Singh was helping Joginder Singh and he was pressurizing him and his parents to effect compromise but they refused to do so, therefore, he was falsely involved in this case.

After hearing arguments, Judge Special Court, Sangrur convicted the accused for offence under Section 18 of NDPS Act, 1985 sentencing him to undergo rigorous imprisonment for two years and to pay fine of Rs. 5000/- in default of payment of fine to undergo further rigorous imprisonment for three months.

Feeling aggrieved, he had filed an appeal before this Court, which came up for hearing on 27.04.2004 when the appeal was admitted and recovery of fine was stayed and he was ordered to be released on bail during the pendency of appeal.

I have heard learned counsel for the appellant and learned State counsel and after going through the record.

At the very outset, learned counsel for the appellant-convict has stated that he does not challenge the impugned judgment as far as conviction of the accused is concerned. But he wants to make submissions as regards the sentence part. He has contended that accused is aged about 50 years

presently and he has already undergone one year seven months of the total sentence; he is not involved in any other criminal case; as such a lenient view in the matter be taken.

Though learned State counsel has opposed the request, however, I find that even in the custody certificate placed on record by learned State counsel, it is mentioned that petitioner has undergone total period of 1 year and 7 months (including remissions) and he is not shown to be involved in any other criminal case and there is nothing on record to show that the accused indulged in any criminal activity after being released on bail in this case. The impugned judgment is modified and sentence is reduced to already undergone by the appellant-accused. Therefore, the impugned judgment is upheld as regards the conviction part whereas it is modified regarding the sentence of appellant-accused, which is reduced to already undergone by him in this case. Though the fine part is maintained. The appellant is directed to deposit the amount of fine in the trial Court within a period of 15 days, otherwise, thereafter, the trial Court is to recover this amount from the appellant as per law.

The petition stands disposed of.

(H.S. MADAAN)
JUDGE

08.02.2018

neeraj

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No