

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

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CRA-S-301-SB-2005 (O&M)

Date of Decision: 04.12.2018.

Tulsi Ram

....Appellant.

Versus

State of Haryana

....Respondent.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Ashwani Verma, Advocate for the appellant.

Mr. Ashish Sanghi, Deputy Advocate General, Haryana.

Shekher Dhawan, J.

Present appeal is against the judgment of conviction dated 22.01.2005 and order of sentence dated 24.01.2005 passed by learned Additional Sessions Judge, Fatehabad, whereby the appellant was tried for having been found in his conscious possession 15 kgs of poppy husk and was convicted under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the Act') and sentenced to undergo rigorous imprisonment for a period of one year and to make payment of fine of Rs.5,000/- and in case of default of payment of fine to further undergo rigorous imprisonment for a period of three months, in case F.I.R. No.603 dated 05.10.2002 under Section 15 of the Act, registered at Police Station Sadar, Fatehabad.

Learned counsel for the appellant contended that he does not contest the judgment of conviction dated 22.01.2005 on merit, but submitted that the appellant has already undergone sentence of four months including two months after conviction and he is not involved in any other case under the Act or any other penal provisions. Learned counsel further contended that the appellant was of the age of 60 years in the year 2005 and by now he is of 73 years of age, so the sentence awarded to the appellant be reduced to the period which he has already undergone during investigation, trial and during pendency of this appeal before this Court.

Learned State counsel, on the basis of custody certificate filed today, affirmed the fact that the appellant has undergone 03 months and 27 days including period of 02 months and 09 days after conviction and there being no other case under the Act against the appellant.

Having considered the above facts and taking into consideration the fact that as the appellant has not contested the judgment of conviction on merits and otherwise also learned trial Judge has considered all the material and documents available on the file including statements of recovery witnesses and report of F.S.L. while passing the judgment of conviction, the appeal against the judgment of conviction dated 22.01.2005 stands dismissed.

As regard to order on quantum of sentence dated 24.01.2005, this Court has every reason to take a lenient view on the sentence. Taking into consideration the age factor of the appellant i.e. 73 years at present and the fact that the appellant has already undergone actual sentence of 03 months and 27 days by now and he is not involved in any other case under

the Act, the order of sentence dated 24.01.2005 is modified to the extent that the sentence awarded to the appellant in this case shall be to the period which he has already undergone during the investigation, trial and pendency of the present appeal.

Appeal is disposed of accordingly.

(SHEKHER DHAWAN)
JUDGE

04.12.2018
jitender

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No