

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

CRA-S-289-SB-2006

Date of Decision:-06.10.2018

Kultar Singh

... Appellant

Versus

The State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

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

Ms. Ruchika Sabherwal, AAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

The appellant assails judgment dated 03.02.2006 passed by the Court of learned Chief Judicial Magistrate, Hoshiarpur, whereby the petitioner had been held guilty of having committed an offence punishable under Section 15 of Narcotic Drugs and Psychotropic Substances Act, 1985 for possessing 900 grams of poppy husk and has been sentenced to undergo rigorous imprisonment for four months and has also been imposed fine amounting to ₹2,000/-.

Today at the very outset, learned counsel for the appellant submits that he restricts his submissions to the quantum of sentence only and

that the sentence may be reduced to one already undergone as the appellant has already undergone incarceration of trial for sixteen years.

I have heard learned counsel for the appellant and also the learned State counsel.

In the present case, it was on 28.06.2002 when a police party headed by ASI Sukhminder Singh was present in connection with '*Nakabandi*' at Una road Bullanwari, Hoshiarpur that a car bearing registration No.PB-10-W-7477 was signalled to stop. A search of the car led to the recovery of plastic bag which was found to contain 900 grams of poppy heads. A sample thereof was sent for chemical examination and upon receipt of the report of Chemical Examiner, a challan was presented against the accused.

Since the recovery of 900 grams of poppy husk falls under the category of 'small quantity', the trial was conducted by the Court of learned Chief Judicial Magistrate, Hoshiarpur.

After framing of charges for offences under Sections 15 of Narcotic Drugs and Psychotropic Substances Act, 1985, the prosecution examined the Investigating Officer and also the recovery witnesses namely PW-1 ASI Sukhminder Singh, PW-2 HC Gobinder Kumar, PW-3 ASI Resham Singh, PW-4 C.Ajmer Singh, PW-5 C. Shiv Kumar, PW-6 DSP Mandip Singh. Upon considering the prosecution evidence, the learned trial Court held that the charges stood substantiated against the accused and consequently held the accused guilty for having committed offence under Section 15 of Narcotic Drugs and Psychotropic Substances Act, 1985.

Having perused the impugned judgment and also having heard learned counsel for the appellant, I do not find any infirmity in the impugned judgment as far as the findings of conviction of the appellant is concerned and the same are hereby affirmed.

As regards the sentence, I find that it is a case of recovery of 900 grams of of poppy heads which falls within the category of 'small quantity' and for which maximum sentence prescribed is six months. As per the custody certificate filed today in the Court, the appellant has already undergone imprisonment to the extent of nineteen days out of the imposed sentenced of four months. He is not stated to be a previous convict. Recovery was effected way back in the year 2002 and as such, the petitioner has faced incarceration of trial since the last about more than sixteen years. Bearing the aforesaid facts in mind, in my opinion, it is a fit case where the sentence deserves to be reduced especially keeping in view the fact that during the last sixteen years or even earlier he is not stated to be involved in any other case. The appeal as such is partly accepted qua sentence. While conviction of appellant is upheld, the sentence is modified by reducing the same from rigorous imprisonment for four months to the period already undergone. The fine imposed upon the appellant shall remain unaltered.

The appeal as such stands partly accepted with the aforesaid modification in sentence.

(GURVINDER SINGH GILL)
JUDGE

06.10.2018

Gaurav Sorot

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No