

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

**Criminal Appeal No.S-1866-SB of 2018 (O&M)
Date of Decision: July 30, 2018**

Narinder Singh @ Rinku

.....APPELLANT(s).

VERSUS

State of Haryana

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. D.S. Virk, Advocate
for the appellant (s).

Ms. Dimple Jain, AAG, Haryana.

SURINDER GUPTA, J.

This is appeal against the judgement dated 17.06.2018, passed by learned Special Judge, Kaithal, whereby the appellant was convicted for the offence punishable under Section 15(b) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short-NDPS Act) and sentenced to undergo rigorous imprisonment for a period of 2 years and to pay a fine of ₹30,000/-, in default thereto, to undergo simple imprisonment for a period of 3 months.

As per prosecution case, on 16.09.2016, recovery of 2 kg of poppy straw was effected from the possession of appellant.

Learned counsel for the appellant without challenging the conviction of accused, has prayed for leniency in quantum of sentence awarded to appellant. He has argued that recovery of 2 kg of poppy straw

was effected from the possession of appellant, who is a young boy aged about 30-32 years. He is not a previous convict. The quantum of sentence awarded by the Trial Court is on higher side. Keeping in view the nature of offence and the antecedents of appellant, who has undergone 5 months and 15 days of imprisonment, his sentence be reduced to the period of imprisonment already undergone by him.

Learned State Counsel has submitted that poppy straw is a contraband. Though the quantity of poppy straw recovered from the possession of appellant was less than commercial quantity, yet the punishment prescribed under the NDPS Act for such offence is rigorous imprisonment, which can extend upto 10 years, as such, the Trial Court has rightly awarded him sentence of rigorous imprisonment for 2 years with a fine of ₹30,000/-.

Admittedly, the appellant is not a previous convict. The recovery of 2 kg of poppy straw falls in category of recovery of contraband, which is less than non-commercial quantity. Keeping in view the age, previous antecedents of the appellant, I find reason to accept submissions of learned counsel for appellant. Accordingly, this appeal is partly accepted and sentence of imprisonment awarded to appellant is modified and reduced to rigorous imprisonment for 6 months but the sentence of fine, as awarded by the Trial Court, is maintained.

Disposed of accordingly.

July 30, 2018
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No