

**CRM-4105-2018 in/and
CRA-S-247-SB-2018 (O&M)**

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

**CRM-4105-2018 in/and
CRA-S-247-SB-2018 (O&M)
Date of Decision: 20.02.2018**

Gurpreet Singh @ Babbu

.....Appellant

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Prateek Pandit, Advocate,
for the applicant-appellant.

Mr. Bhupender Beniwal, A.A.G., Punjab.

AMOL RATTAN SINGH, J. (ORAL)

Custody certificate of the applicant-appellant has been filed in Court today by learned State counsel, which is taken on record.

Learned counsel for the applicant-appellant submits that he does not wish to pursue the appeal on merits but confines his arguments to the quantum of sentence imposed upon the applicant-appellant (Gurpreet Singh @ Babbu), he having been convicted for the commission of an offence punishable under Section 22 of the NDPS Act, 1985 and sentenced to one years' rigorous imprisonment with a fine of Rs. 5,000/- also imposed upon him (in default of which he is to further undergo rigorous imprisonment of 15 days).

Consequently, with the consent of learned counsel for the parties, the main appeal itself is taken up on Board for final hearing.

As per the custody certificate filed in Court today by learned State counsel, there is no other criminal case seen to be registered against the applicant-

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appellant, with him having undergone 02 months and 28 days of actual custody out of the aforesaid sentence of 01 year imposed in the 'present case'.

Learned counsel for the State submits that though the applicant-appellant is a first time offender and the quantity of the contraband shown to be recovered from him (Diphenoxylate Hydrochloride), is 10 grams, with the commercial quantity being above 50 grams, however, he having been found to be in possession of even that much contraband and having undergone less than 03 months of actual custody, he is not entitled to the concession of reduction of the quantum of sentence either.

Learned counsel for the applicant-appellant, on the other hand, in rebuttal submits that the applicant-appellant (as already recorded by the trial Court in the order pronouncing sentence), is a poor person having four unmarried sisters and therefore, it being his first offence, the sentence imposed upon him may be reduced.

Having considered the aforesaid arguments, in my opinion, the quantity of the contraband recovered from him being well below the commercial quantity and he being a first time offender, in the aforesaid circumstances, the sentence imposed upon him may be reduced to 04 months of actual rigorous imprisonment instead of 01 year and consequently, upon the applicant-appellant undergoing 04 months of rigorous imprisonment and paying the amount of the fine imposed upon him, he shall be released from custody. If the fine is not paid, he would additionally undergo 15 days rigorous imprisonment, as imposed by the trial Court.

The appeal is partly allowed to the aforesaid extent.

February 20, 2018
nitin

Whether speaking/reasoned
Whether Reportable

(AMOL RATTAN SINGH)
JUDGE

Yes
No.