

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

**CRA-S-4032-SB-2017 (O&M)
Decided on: 07.02.2018**

Rinku	Versus	 Petitioner
State of Punjab		 Respondent

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

Present: Mr. R.C. Sharma, Advocate
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

H.S. MADAAN, J (ORAL)

Custody certificate filed in Court today, is taken on record.

Accused Rinku was tried by Judge Special Court, SAS Nagar, Mohali for offence under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 on the allegations that on 16.10.2014, in the area of T-point, Royal Estate, Zirakpur when intercepted by a police party headed by ASI Kewal Singh he was found in possession of 35 gms of smack. Formal FIR in the matter was registered, case was investigated and thereafter he was sent to police trial. After framing of charge under Section 21 of the NDPS Act, 1985 the appellant pleaded not guilty, the prosecution led evidence. Thereafter, statement of accused under Section 313 Cr.P.C. was recorded in which he raised the plea of ignorance. In further hearing of the arguments vide order dated 01.11.2017, he was convicted for offence under Section 21 of the NDPS Act and sentence to undergo rigorous imprisonment for six months and to pay a fine of ₹5,000/- in default of payment of fine, to further undergo rigorous imprisonment for fifteen days.

Feeling aggrieved, he has filed an appeal before this Court which came up for hearing on 15.11.2017 when it was admitted. The amount of fine is said to have been deposited by the appellant in the trial Court.

I have heard learned counsel for the appellant, learned State counsel besides going through the record. At the very outset, learned counsel for the appellant states that he does not challenge the impugned judgment on the point of conviction, but his only prayer is regarding the sentence part. According to him, the appellant-Rinku is 28 years of age, of the total substantive sentence of six months awarded to him, he has already undergone four months and fourteen days, as such leniency in the sentence be shown to him as he is a poor person and has suffered a fracture in his leg and implantation had been put therein.

Learned State counsel, however, opposes the request stating that he is involved in several other criminal cases and does not deserve any leniency.

After hearing the rival contention, I find that the recovery of contraband involved in this case is quite small and keeping in view the young age and poor financial condition of the petitioner as submitted by learned counsel for the appellant and that out of six months of substantive sentence awarded to him, he has already undergone four months and fourteen days. The other cases in which he is involved are not under NDPS Act, but are under various other provisions of IPC.

I am of the considered view that ends of justice would be squarely met if the appellant is sentenced to imprisonment already undergone by him, while in custody in the present case.

Therefore, the impugned judgment is upheld as regards conviction part qua the appellant. However, as far sentence part is concerned, the same is modified and the appellant is sentenced to imprisonment already undergone by him as mentioned supra. However, the sentence regarding the fine part is kept as intact.

As such the appeal challenging the impugned judgment stands disposed of with above modification in sentence. The appellant – Rinku who is stated to be in custody is ordered to be released forthwith on payment of fine, if not required in any other case.

Necessary intimation be sent to the quarter concerned.

**(H.S. MADAAN)
JUDGE**

07.02.2018

Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No