

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-1706-SB-2004 (O&M)

Date of Decision: 25.09.2019

Bant Singh

...Appellant

VERSUS

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

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

Mr. Raj Kumar Makkar, Sr. DAG, Haryana.

SURINDER GUPTA, J.

This is appeal filed by the appellant against the judgment passed by additional Sessions Judge, Fatehabad, whereby he was convicted and sentenced to undergo rigorous imprisonment for five years and to pay a fine of ₹10000/- and in default of payment of fine to further undergo simple imprisonment for six months, for offence punishable under Section 18 of Narcotic Drugs and Psychotropic Substances Act, 1985 (later referred to as 'NDPS Act').

Heard.

As per case of prosecution, the appellant was arrested on 07.07.2001 by a police party headed by SI Shamsheer Singh of Police Station Ratia and recovery of 1.5 kgs. of Opium was effected from his possession.

Learned counsel for the appellant has not challenged the conviction of appellant on merit and has confined his submission only for taking a lenient view regarding the quantum of sentence. He submits that the appellant was arrested in the year 2001 and a period of about 19 years has

passed thereafter. For the offence committed by him he has already undergone 01 year 11 months and 01 days of imprisonment. Keeping in view all these facts, sentence as awarded to him may be reduced to the period of sentence already undergone.

Learned State counsel submits that as per custody certificate, there are three other cases registered against the appellant, out of which, in two cases he has been convicted and in one case he has been acquitted.

The recovery of contraband effected from the appellant was 1.5 kgs. of Opium. A period of 19 years has lapsed thereafter. After registration of present case, he was convicted in another case registered against him in the year 2002 for offence under the provisions of 'NDPS Act', in which case his appeal appears to be pending and his sentence was suspended vide order dated 21.08.2007. The other case, in which he was convicted, was for offence under Section 13 of the Public Gambling Act, 1867 in the year 1996. Thereafter, he has not been found involved in any other case. As per custody certificate produced on record, the appellant has undergone 01 year 11 months and 01 day of imprisonment.

Keeping in view above facts, I find merit in submission of learned counsel for the appellant. Sentence already undergone by the appellant meets the ends of justice. The appellant during last 17 years has not been found involved in any criminal case. Keeping above facts in view, instant appeal is partly accepted. Conviction of appellant for offence punishable under Section 18 of 'NDPS Act', as awarded by the trial Court, is maintained. However, his sentence is reduced from rigorous imprisonment for five years to the period of sentence already undergone by him. However, the sentence of fine shall remain intact alongwith default clause.

Copy of this order be conveyed to Chief Judicial Magistrate, Fatehabad and concerned Jail Superintendent for information and necessary action.

September 25, 2019
jk

(SURINDER GUPTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>