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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-1764-SB-2004

Date of Decision : February 12, 2019

Sucha Singh

.... Appellant

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by Mr.B.P.S. Virk, Advocate,
for the appellant.

Mr. D.K.Mittal, DAG, Haryana,
for respondent-State .

SHEKHER DHAWAN, J.

Present appeal is directed against the judgment of conviction and order of sentence dated 20.8.2004, passed by learned Judge, Special Court, Kaithal whereby appellant-Sucha Singh was convicted and sentenced as under:-

Under Section	Sentence	In default
15 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short " the Act ")	to undergo Rigorous Imprisonment for a period of 8 months and to pay a fine of Rs.1000/-	to further undergo R.I. for a period of 1 month.

2. Facts relevant for the purpose of decision of the appeal; that on 07.02.2002, the police party head by Satbir Singh, Assistant Sub Inspector was on patrolling duty and when they reached in the area of

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village Azimgarh, they saw the appellant coming from the side of Village Azimgarh towards Dera of Patwarian having a bag with some weight on his shoulder. On seeing the police party, he took a turn towards fields and sat down. On suspicion, the accused was apprehended by the police party and the bag was searched in the presence of Gazetted officer, DSP Guhla, Dharam Pal Singh Dalal and on the direction of DSP, the bag was searched by the Investigating Officer and poppy husk was recovered. Out of the recovered quantity, two samples of 200 gms. of poppy husk each were separated and converted into separate samples and the remaining poppy husk came to be 5 Kgs. 100 gms. The two parcels were prepared and both were sealed by the Investigating Officer with his seal bearing letters 'SS' and that of the seal of D.S.P. bearing letters 'DS'. Both the parcels, sample seal and the bag were taken into possession vide recovery memo Ex. PE. Ruqa Ex. PC was sent to the Police Station on the basis of which formal FIR Ex. PC/1 was recovered. On 08.02.2002, the samples were sent to the FSL Madhuban and on receipt of FSL report (Ex. PH) was received to the effect that the sample was identified as Poppy Straw (Chooria Post) of papaver Somiferum L. After completion of investigation proceedings, challan was presented in the Court for trial.

3. During trial, learned Court below completed various proceedings of trial including framing of charge against the accused, recording of evidence of the witnesses and examination of accused under Section 313 Cr.P.C. After considering the prosecution and the defence evidence on record, learned Judge, Special Court, Kaithal held the accused-appellant guilty and convicted him for commission of offence punishable under Section 15 of the Act and sentenced him vide judgment

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and order dated 20.08.2004 as mentioned in para No.1 above.

4. Aggrieved of passing of judgment of conviction and order of sentence, the appellant is before this Court by way of present appeal.

5. At the very outset, learned counsel representing the appellant contended that he does not challenge the judgment of conviction and a lenient view on the point of sentence be taken. As per the custody certificate dated 02.02.2019, the appellant has already undergone total sentence of 01 month and 10 days (including remissions) against the awarded sentence of 8 months.

6. Learned State counsel contended that the appellant does not deserve any concession and the present appeal be dismissed.

7. Having considered the submissions made by learned counsel for the parties and appraisal of record, this Court is of the considered view that learned trial Court has already appreciated the evidence in its perspective manner. The prosecution has successfully proved on record the recovery of poppy husk from the accused-appellant and all the witnesses have supported the prosecution version. Learned trial Judge has rightly held that the testimonies of official witnesses cannot be discarded merely on the ground of their official status and there is nothing on record to show that the prosecution witnesses had any enmity to falsely implicate the accused. As such, no interference is called for in the findings recorded by learned trial Judge and the present appeal qua judgment of conviction passed by the Court below, stands dismissed.

8. As regard to quantum of sentence, this Court is certainly inclined to take a lenient view in this case. Considering the fact that the appellant has already undergone total sentence of 01 month and 10 days

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(including remissions) against the awarded sentence of 8 months as per the custody certificate dated 02.02.2019 and that he is not a previous convict under the Act, taking a lenient view on the point of sentence, the order of sentence is modified to the extent that the sentence of appellant – Sucha Singh in this case shall be reduced to the period he has already spent while remaining in custody during the period of trial and present appeal.

9. Resultantly, the present appeal stands disposed of in the above terms.

(SHEKHER DHAWAN)
JUDGE

February 12, 2019
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes