

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-D-448-DB-2010 (O/M)

Date of decision : 27.2.2019

Madan Lal

..... Appellant

Versus

Intelligence Officer, Directorate of Revenue Intelligence (Sub-Unit) M-I/C,
Green Avenue, Amritsar. Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Jasraj Singh, Advocate,
for appellant.

Mr. D.D. Sharma, Advocate,
for respondent.

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KULDIP SINGH, J.

Accused-appellant Madan Lal alongwith co-accused Kamaljit Singh Manku was convicted under Sections 21 and 23 of Narcotic Drugs Psychotropic Substances Act, 1985 (in short 'the Act') by learned Judge, Special Court, Amritsar, vide judgment of conviction and order of sentence dated 5.3.2010, and sentenced as under :-

Kamaljit Singh Manku	U/s 21 of NDPS Act	Rigorous imprisonment for twelve years and to pay fine of Rs. One lac. In default of payment of fine, convict is to undergo further rigorous imprisonment for one year.
	U/s 23 of NDPS Act	Rigorous imprisonment for ten years and to pay fine of Rs. One lac. In default of payment of

		fine, convict is to undergo further rigorous imprisonment for one year.
Madan Lal	U/s 21 of NDPS Act	Rigorous imprisonment for twelve years and to pay fine of Rs. One lac. In default of payment of fine, convict is to undergo further rigorous imprisonment for one year.
	U/s 23 of NDPS Act	Rigorous imprisonment for ten years and to pay fine of Rs. One lac. In default of payment of fine, convict is to undergo further rigorous imprisonment for one year.

Both sentences were directed to run concurrently.

Against said judgment of conviction and order of sentence, accused-appellant Madan Lal has filed present appeal.

The short facts which are required to be noticed for the purpose of present appeal are that accused-appellant Madan Lal was driving Indica car, bearing registration No. PB-07-N-7098 and Kamaljit Singh Manku was travelling as a passenger in said car. The Senior Officer of Directorate of Revenue Intelligence on receiving an information intercepted said car on 10.9.2007 at about 6.30 PM. The search of vehicle was carried out before a gazetted officer Shri S.K.S. Chugh. One zipper bag of brown colour was recovered from the back seat of said car, which contained 10 packets wrapped in white cloth, which bon testing were found to be of heroine. On weighment, same came to 10.018 kgs. The samples were accordingly drawn and after investigation, challan was presented against both accused.

After framing of charge and recording evidence of prosecution, the evidence was put to accused. Accused-appellant claimed that nothing was recovered from him. He was running taxi under the name of Mahi Taxi Stand. His taxi was hired by Kamaljit Singh Manku, co-accused to pay obeisance to Gurdwara Baba Budha Sahib and other religious places. Nothing incriminating article was recovered from the taxi. He had no knowledge about contents in the luggage of Kamaljit Singh Manku. He is a retired Army personnel and a law abiding citizen. His statement was taken under duress, threat and coercion and not voluntarily in nature.

We have heard the learned counsel for appellant, learned counsel for respondent and have also carefully gone through case file.

Custody certificate has been filed in Court today and same is taken on record. Perusal of custody certificate shows that appellant, as on 26.2.2019, has undergone actual sentence of 10 years, 6 months and 6 days.

The short prayer of learned counsel for appellant is that he does not press present appeal on merits, but his sentence may be reduced from 12 years to a period already undergone by him.

Considering the facts and circumstances and also considering that accused-appellant is an Ex-Service man and was stated to be running taxi, we are of the view that lenient view is required to be taken qua appellant. As such, substantive sentence of rigorous imprisonment for 12 years, passed under Section 21 of NDPS Act, is reduced to rigorous imprisonment for 10 years and 6 months. The remaining part of sentence is maintained. The sentence under Section 23 of NDPS Act is also maintained.

With the abovenoted modification, appeal is dismissed.

Appellant be released forthwith, if not required in any other case.

(RAJIV SHARMA)
JUDGE

(KULDIP SINGH)
JUDGE

27.2.2019
sjks

Whether speaking order : Yes / No

Whether reportable : Yes / No