

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-2405-SB of 2004 (O&M)

Date of Decision: 02.12.2019

Mohinder @ Kala

...Appellant

VERSUS

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Atul Jain, Advocate
for the appellant.

Mr. Amitoj Singh Dhaliwal, DAG, Punjab

SURINDER GUPTA, J.

This is appeal filed by the appellant against judgment of conviction and order of sentence both dated 25.11.2004 passed by Judge, Special Court, Kapurthala, whereby he was convicted and sentenced to undergo rigorous imprisonment for two years and to pay a fine of ₹20000/- and in default of payment of fine to further undergo rigorous imprisonment for three months, for offence punishable under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (later referred to as 'the NDPS Act').

2. Case of the prosecution, in brief, is that the appellant was apprehended on 28.06.2000 by the police party headed by ASI Gurmukh Singh of Police Station Bholath, District Kapurthala and 10 kgs. of poppy-husk was recovered from his possession.

3. Learned counsel for the appellant has not challenged the conviction of appellant as recorded by the trial Court and has requested for a lenient view on the quantum of sentence. He submits that the appellant is

now around 68/69 years of age. He was neither a previous convict nor was found involved in any criminal case after registration of this case and this fact is evident from his custody certificate produced on file. His sentence was suspended on 07.12.2004 and after a long period of 15 years interest of justice shall not be served by sending him in jail. He has pleaded for reducing the sentence of appellant to the period of sentence already undergone by him.

4. Age of the appellant in the title of judgment of learned trial Court is mentioned as 49 years. The case was registered in February, 2000. By now he must be 68/69 years of age. It is evident from the custody certificate produced on file by learned State counsel that he is neither a previous convict nor was found involved in any criminal case after registration of this case. His sentence was suspended in the year 2004 and thereafter, he has not been found involved in any other case. Custody certificate shows that he had already undergone 03 months and 06 days of imprisonment at the time of suspension of his sentence.

5. Keeping in view that a period of 15 years has lapsed after suspension of sentence of appellant, his age and antecedents and facts of the case, I am of the opinion that no purpose will be served by sending him in jail to undergo his remaining sentence of imprisonment and interest of justice will be fully served if his sentence as awarded by the trial Court is reduced to the period of sentence already undergone by him.

6. Consequently, this appeal is partly accepted. The conviction of appellant as recorded by learned trial Court for the offence punishable under Section 15 of the NDPS Act is maintained. However, the sentence awarded to him is reduced from two years rigorous imprisonment to the

period of sentence already undergone by him. However, the sentence of fine shall remain intact alongwith default clause.

7. Copy of this order be conveyed to Chief Judicial Magistrate, Kapurthala to initiate proceedings for recovery of fine from the appellant.

December 02, 2019
jk

(SURINDER GUPTA)
JUDGE

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