

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

CRA-S-1572-SB OF 2005
Date of Decision: 10.04.2019

RajuAppellant

versus

State of HaryanaRespondent

CORAM HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present Mr.Atul Partap Dhankhar, Advocate
for Mr. Bijender Dhankhar, Advocate for the petitioner.
Mr. Yashwinder Singh, DAG, Haryana.

MAHABIR SINGH SINDHU, J (ORAL)

Present appeal has been filed against the impugned judgment of conviction and order of sentence dated 08/09.07.2005, passed by learned Special Judge, Sonapat, whereby the appellant has been convicted and sentenced to undergo two years rigorous imprisonment and fine of Rs.5,000/- under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') with default clause to further undergo rigorous imprisonment for three months.

At the very outset, learned counsel for the appellant has submitted that instead of pressing for challenging the conviction, he will confine his prayer only regarding the quantum of sentence.

It is argued that appellant has undergone the actual sentence of 10 months and 12 days and there is no other criminal case pending against him. Further submitted that appellant is facing prosecution in this case for the last approximately 15 years and this was the first offence against him. Also submitted that after release on bail in the present case on 31.10.2005, appellant has not committed any offence.

On the other hand, learned State counsel has opposed the submissions and prayed for dismissal of the appeal.

Heard both sides and perused the paper book.

Undisputedly, recovery from the appellant in the present case is non-commercial i.e. 7 kg poppy husk.

MAMTA
2019-05-04 02:00
I attest to the accuracy and
integrity of this document

Custody certificate of the appellant has been produced by learned State counsel in Court today and the same is taken on record. Perusal of the custody certificate reveals that out of total sentence of two years, the appellant has already undergone the actual sentence of 10 months and 12 days including post conviction period of three months and twenty two days and he is not involved in any other criminal case. The appellant is facing the criminal proceedings in the present case since 19.12.2004 i.e. for the last more than 14 years, and thus, he must have suffered a lot uptill now.

Paper book reveals that sentence of the appellant was suspended by this Court on 03.10.2005 and after that he is not found to be involved in any criminal activity, thus, seems to have returned in the main stream of the society and that can be considered as a mitigating circumstance for reduction of his sentence.

In view of the above, conviction of the appellant imposed by learned Special Judge, Sonapat, is upheld, however, his sentence is reduced to the period already undergone by him. Fine if not already paid, the same be deposited before the learned trial Court within a period of three months from today.

The present appeal is partly allowed.

10.04.2019
mamta

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No