

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-4617-SB-2017 (O&M)
Date of Decision: 29.08.2019

Munir Ali

...Appellant

VERSUS

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

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

Mr. Rakeshinder Singh Sidhu, A.A.G. Punjab.

SURINDER GUPTA, J. (O&M)

Learned counsel for the appellant submits that quantity of contraband recovered from the appellant is non-commercial but he has been awarded sentence of rigorous imprisonment for ten years and to pay a fine of ₹1 lakh for offence punishable under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, which is prescribed for recovery of commercial quantity of contraband.

On the request of learned counsel for the appellant, the appeal, which was admitted vide order dated 22.12.2017 is taken on board for final hearing.

As per case of prosecution, the appellant was apprehended by police party headed by SI Gurinder Singh of Police Station Tripuri, District Patiala on 15.02.2015 and a plastic bag containing 1000 ml. of liquid (Codeine Phosphate) was recovered from his possession. After completion of investigation, challan against him was presented in Court.

Detail facts of case are not being discussed as learned counsel for the appellant has only pressed the issue of recovery of non-commercial quantity of contraband from the appellant and has not challenged his conviction as recorded by the trial Court on merit.

Admittedly, recovery from the appellant is 1000 ml. of intoxicating liquid (Codeine Phosphate) and more than 1 kg. of Codeine Phosphate falls in commercial quantity of contraband. In view of this recovery of intoxicating liquid effected from the appellant falls in non-commercial quantity. The contention of learned counsel for the appellant to this effected is accepted.

Learned counsel for the appellant further submits that appellant is not a previous convict. He has undergone 1 year 11 months and 13 days of imprisonment by now. He was a young boy of 28 years at the time of his apprehension, as such, a lenient view may be taken regarding quantum of sentence awarded to him.

Custody certificate dated 29.08.2019, produced by learned State counsel shows that the appellant has undergone 1 year 11 months and 13 days of actual sentence as on 28.08.2019. In the custody certificate, there is no reference of his involvement in any other case. Age of the appellant is recorded as 28 years in the headnote of judgment passed by the trial Court.

Keeping in view all the above facts, I find reasons to accept submissions of learned counsel for the appellant. This appeal is partly accepted. The conviction of appellant as recorded by learned trial Court is upheld. However, the sentence awarded to him for offence under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 is reduced from ten years rigorous imprisonment to the period of sentence already

undergone by him. Sentence of fine as awarded by the trial Court is also reduced from ₹1 lakh to ₹10,000/-. In default of payment of fine, he shall further undergo rigorous imprisonment for two months.

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

August 29, 2019
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No