

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 235

Criminal Appeal No.S-1857-SB of 2018 (O & M)

Date of Decision: *September 04, 2019*

Boota Singh

..... APPELLANT

VERSUS

State of Punjab

..... RESPONDENT

CORAM: **HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

. . .

PRESENT: - Mr. Sandeep Verma, Advocate, for the appellant.

Mr. A.P.S. Gill, Deputy Advocate General, Punjab.

Amol Rattan Singh, J (Oral)

Learned counsel for the appellant submits that he has taken specific instructions from the applicant - appellant even while he is in custody, to the effect that he does not pursue the appeal on merits and simply restricts his prayer to the quantum of sentence imposed upon him by the learned trial court, after his conviction for the commission of an offence punishable under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act').

He further submits that the petitioner is 69 years old (with the trial court showing him to be 65 years of age on the date of its judgment. Thus, in any case, he would be presumed to be 67 years of age as of today).

The appellant is stated to have been apprehended carrying 500 tablets of MAIDOTIL (Diphenoxylate hydrochloride) and 130 capsules of PARVON SPAS (also Dextropropoxyphene hydrochloride). As regards the tablets MAIDOTIL, the total weight was stated to be 40.5 grams, and as regards the PARVON SPAS capsules, the total weight was found to be

81.64 grams, which recovery was of a non commercial quantity (reference paragraph 28 of the judgment of the trial court).

It is seen as per the custody certificate filed today in Court by the learned State counsel, that the appellant is a first time offender, with no other criminal case shown to be registered against him.

However, for the aforesaid recovery of non commercial quantity, he has been sentenced to 6 years of rigorous imprisonment by the trial court, in addition to a fine of ₹ 30,000/- having been imposed upon him, in default of payment of which he is to undergo one more year of rigorous imprisonment.

Consequently, considering the age of the appellant as also the fact that he is not shown to be involved in any other criminal case, the appeal is allowed to the extent of the sentence imposed upon him for the commission of an offence punishable under Section 22 of the NDPS Act being reduced to the extent already undergone by him, i.e. 2 years 3 months and 11 days as on 03.09.2019, with the fine imposed upon him also reduced to ₹ 15,000/-, in default of payment of which he would undergo further imprisonment for 3 months. It is made clear that the appellant shall be released only after the payment of fine.

The conviction in any case not being now challenged on merits, it is obviously maintained.

Disposed of.

September 04, 2019

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**(Amol Rattan Singh)
Judge**

Whether Speaking/ Reasoned:

Yes/ No

Whether Reportable:

Yes/ No