

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

**CRA-S-245-2020 (O & M)
Date of Decision: 19.03.2020**

Sushil Kumar

.....Appellant

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Mandeep Kumar Dhot, Advocate, for the appellant.

Mr. Dhruv Dayal, Sr. DAG, Punjab.

HARNARESH SINGH GILL, J.

Custody certificate by way of affidavit of Deputy Superintendent, Central Jail, Patiala, has been filed by the learned State counsel in the Court today. The same is taken on record.

Present criminal appeal has been preferred by the appellant against judgment of conviction and order of sentence dated 07.01.2020 passed by the learned Judge, Special Court, Patiala, in case FIR No. 91 dated 03.05.2017 registered under Section 15 of Narcotic Drugs and Psychotropic Substances Act (NDPS), 1985 at Police Station Patran, District Patiala, wherein the appellant was convicted for the offence punishable under Section 15 of the NDPS Act and sentenced to undergo imprisonment for a period of six months and to pay a fine of Rs.10,000/-, in default thereof, to further undergo simple imprisonment for a period of one months.

As per the prosecution version, the present appellant was found in possession of 7 kg. of poppy husk.

Learned counsel for the appellant states that he is not pressing this appeal on merit and is not challenging the conviction on merit. He is only aggrieved against the sentence part. Learned counsel for the appellant prays that the sentence of the appellant be suitably reduced as this criminal trial is hanging on his head like Damocle's sword for more than 2½ years and it should be a sufficient mitigating circumstance to treat him leniently. Learned counsel for the appellant has further submitted that FIR relates to the year 2017 and since then a period of more than 2½ years has elapsed. The appellant has suffered the ordeal of trial for this long period. Learned counsel for the appellant submits that appellant has already undergone the actual sentence of 05 months and 01 day. In support of his contentions, the learned counsel relies upon ***Gurjit Singh @ Kali Vs. State of Punjab*** 2017 (4) Law Herald 3402.

I have heard the learned counsel for the parties and perused the record and even as per custody certificate appellant is not involved in any other case

I need not dilate upon the facts of this case in detail as the same have already been recapitulated in the judgment of the learned Court below and in view of the ultimate prayer of the appellant seeking reduction in sentence.

In view of the arguments advanced by learned counsel for the appellant and law laid down in ***Gurjit Singh @ Kali's case (supra)***, this Court is of the view that no useful purpose would be served by keeping the

appellant behind the bars further. It is a fit case wherein sentence awarded to the appellant can be reduced to the period already undergone. Therefore, sentence imposed upon the appellant is reduced to the period already undergone by him in the present case. However, sentence of fine and default clause shall remain intact. The impugned order of sentence, fine and conviction, including default clause, stand affirmed with aforesaid modification. The appellant be released forthwith on deposit of fine, if not required in any other case.

Disposed of in the aforementioned terms.

19.03.2020

Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

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