

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

CRA-S-1538-SB-2006 (O&M)

Date of decision: 12.02.2020

Balbir Singh

...Appellant

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Gulshan Sharma, Advocate for the appellant.

Rana Harjasdeep Singh, DAG, Punjab.

H.S. MADAAN, J. (Oral)

Accused Balbir Singh son of Darshan Singh son of Bisham Singh, aged about 60 years, faced trial by Special Judge, Ferozepur in case FIR No.08 dated 16.01.2005, registered with Police Station Ghall Khurd, District Ferozepur, on the allegations that on 16.01.2005 at about 7.00 PM in the area in between Village Mudki and Mishriwala, when the accused apprehended by the police, he was found in possession of 10 kgs of poppy husk. He was formally arrested in this case; the case property was taken into possession; usual proceedings were carried out at the spot; sample parcel had been sent to Chemical Examiner for analysis and as per report received therefrom, it was found to be that of poppy husk. Thereafter, he was challaned.

When the challan came up before Special Judge, Ferozepur,

he framed formal charge for offence under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act') against the accused, to which, he pleaded not guilty and claimed trial.

During the course of its evidence, the prosecution led oral as well as documentary evidence. On conclusion thereof, statement of accused was recorded under Section 313 Cr.P.C., in which he denied all the allegations, pleading false implication. He did not led any evidence in defence.

On conclusion of trial, vide judgment dated 11.08.2006, he was convicted for offence under Section 15 (b) of the Act. He was sentenced to undergo RI for a period of one year and to pay a fine of Rs.10,000/-, in default of payment of fine, to further undergo RI for a period of 02 months.

Feeling aggrieved by judgment of his conviction and sentence, accused/convict Balbir Singh has approached this Court, by way of filing an appeal, which was admitted and recovery of fine was stayed.

I have heard learned counsel for the appellant/convict, learned State counsel besides going through the record.

Learned counsel for the appellant/accused at the very outset has stated that he does not challenge the impugned judgment on the point of conviction and has got only submissions to make with regard to the sentence. He submits that as per custody certificate filed by the State counsel, accused/convict has already undergone total sentence of 03

months and 13 days; presently he is aged about 75 years. The incident is of the year 2005 i.e. more than 15 years earlier. The appellant/convict is a first offender, as such, some leniency be shown to him in the matter of sentence.

Considering the quantity of contraband recovered from the accused, his old age and the fact that he does not have past criminal record, furthermore, he has already spent more than 03 months behind bars, it would be proper and appropriate if sentence is reduced to already undergone in this case. Thus, the appeal is dismissed as regards the conviction part, whereas, it is allowed partly with regard to sentence part, inasmuch as the appellant/accused is ordered to be sentenced to imprisonment already undergone by him in this case, whereas, fine shall remain intact.

With such modification, the appeal stands disposed of.

12.02.2020

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No