

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

CRA-S-458-SB-2005 (O&M)

Date of decision: 20.02.2020

Shiv Ram

...Appellant

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN**

Present: Mr. Shrey Goel, Advocate,  
for Mr. J.K. Goel, Advocate,  
for the appellant.

Mr. Vikrant Pamboo, DAG, Haryana.

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**Jitendra Chauhan, J. (Oral)**

The instant appeal has been filed assailing the judgment of conviction dated 11.02.2005 and order of sentence dated 15.02.2005 (hereinafter referred to as the impugned judgment'), passed by learned Judge, Special Court, Kurukshetra (for short, 'the trial Court'), thereby, convicting the appellant under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') and sentencing him to undergo rigorous imprisonment for a period of 04 months and to pay fine of Rupees five thousand with default stipulation.

At the very outset, learned counsel appearing in behalf of the appellant submits that he does not wish to press the appeal on merits.

However, he prays for a lenient view in the matter of sentence.

On the other hand, learned State counsel submits that the recovery was effected from the conscious possession of the appellant. All the mandatory provisions of law have been complied with. The police did not have any motive or *mala fide* to falsely implicate the appellant.

Heard.

Though, learned counsel does not press the instant appeal on merits, but this Court has re-scanned the entire evidence. In the instant case, the appellant was apprehended while in possession of 3.5 kgs. of poppy husk without any permit or licence. The police party was present near Nalvi Railway Crossing, Thol Road, Shahbad in connection with patrolling and excise checking. Thus, it is a case of chance recovery. Therefore, the non-joining of any independent witness is also of not much consequence. All the prosecution witnesses have fully supported the prosecution case and also withstood lengthy cross-examination. Therefore, this Court is of the considered view that the judgment of conviction has been rightly recorded by learned trial Court and the same does not call for any interference.

As regards the quantum of sentence, a perusal of the custody certificate reveals that the applicant has already undergone 02 months and 03 days out of the substantive sentence of 04 months. He is not involved in any other case. He has suffered the agony of protracted trial.

Considering the above, this Court is inclined to take a lenient view in the matter of sentence. Accordingly, the sentence of imprisonment of the appellant is reduced from 04 months to the period already undergone by him, subject to payment of enhanced fine of ₹ 5,000/- to be deposited

with the Punjab and Haryana High Court Bar Association, within 45 days from the date of receipt of a certified copy of this judgment, failing which the instant appeal shall be deemed to be dismissed without further notice. The fine already imposed by learned trial Court shall remain unchanged. The appellant is stated to be on bail. His bail bonds shall remain discharged.

Disposed of.

20.02.2020  
*atulsethi*

**(JITENDRA CHAUHAN)**  
**JUDGE**

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