

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

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CRA-S-779 of 2019 (O&M)

Date of decision : 12.02.2020

Deepak

... Appellant

Versus

State of Haryana

.. Respondents

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

Present : Mr.Mandeep Kaushik, Advocate for
Mr.Ravinder Hooda, Advocate
for the appellant.

Ms.Dimple Jain, AAG, Haryana.

H.S. Madaan, J. (Oral)

Accused-Deepak faced trial before the Additional and Sessions Judge, Rohtak in case FIR No.442, dated 11.08.2017 an offence under Section 17 of NDPS Act, registered with Police Station Shivaji Colony, Rohtak.

As per prosecution story on 11.08.2017, when apprehended by the Police party at approach Raod, Sunaria, the appellant was found in possession of 16 grams of heroine. He was accordingly arrested in this regard. Necessary proceedings were carried out and samples of 2 grams each were separated from the total contraband and then samples and the remaining contraband converted in the form of sealed parcels. were taken into possession. During investigation, samples were sent to forensic science laboratory which confirmed that the recovered contraband was heroine.

On completion of investigation and other formalities, challan was presented in the court, and the accused was charged for an offence under Section 21 of the NDPS Act to which he pleaded not guilty.

On conclusion of the trial, the accused was convicted and sentenced to undergo rigorous imprisonment for a period of 02 years under Section 21 of the NDPS Act, and to pay a fine of Rs.10000/-; in default of payment of fine, to undergo further imprisonment for a period of three months vide judgment and order dated 15.02.2019. As per custody certificate filed by the State counsel, till date the appellant-accused has undergone actual sentence of 01 year and 12 days including remission.

Feeling dissatisfied by the judgment of his conviction and sentence, the appellant has approached this Court by way of filing an appeal. In the said appeal, notice was given to the State of Haryana.

I have heard learned counsel for the applicant-appellant and learned State counsel besides going through the record.

At the very outset, learned counsel for the appellant, accused submits that he does not challenge the judgment with regard to the conviction but has got submissions to make with regard to the sentence part. According to him, the accused was aged about 30 years at the time of his conviction; he is a poor person; he is having an old aged mother to look after; he is only earning member in the family, therefore, some leniency be shown to him in the matter of sentence.

Though, his request has been opposed by the State counsel contending that he is involved in two more criminal cases of similar nature but I find that keeping in view the facts and circumstances of the case, the

quantity of recovery and the mitigating circumstances explained by the learned counsel for the appellant, it shall be proper and appropriate if the sentence of the accused-appellant is reduced to the already undergone in this case by keeping the fine part intact.

It is ordered, accordingly.

With such observations in the impugned judgment, appeal stands allowed partly.

[H.S. MADAAN]
JUDGE

12.02.2020
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No