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

CRA-D-951-DB-2013 (O&M)

Date of Decision: 20th July, 2020

Felix Adewole

Appellant

V/S

State of Punjab

Respondent

**CORAM: JUSTICE S. MURALIDHAR
JUSTICE AVNEESH JHINGAN**

Present: Mr. Vipul Jindal, Advocate for the Appellant.

Mr. H.S. Grewal, Addl. A.G., Punjab.

Dr. S. Muralidhar, J.

1. This is an appeal against the judgment and order dated 30th May, 2013 passed by the Special Court, Amritsar convicting the Appellant under Section 21 read with Section 8 of the Narcotic Drugs & Psychotropic Substances Act, 1985 ('NDPS Act') and sentencing him to undergo rigorous imprisonment (R.I.) for 15 years along with payment of fine of Rs. 1,50,000/- and, in default of payment of fine, to undergo further R.I. for one year.

2. Mr. Vipul Jindal, learned counsel for the Appellant points out that the Appellant is a Nigerian national and that he has been continuously in prison since 7th January, 2010. He has actually undergone more than 10 years and six months of imprisonment, of which more than seven years are post-

conviction. He points out that during the entire period of incarceration the Appellant has never been released on bail or on parole for any reason whatsoever, and that his conduct in prison has been satisfactory.

3. Mr. Jindal states, on instructions, that the Appellant would not contest the appeal on merits but would only pray that the sentence awarded to him be confined to the period already undergone by him. Mr. Jindal points out that in the present appeal, the Appellant stands convicted for being in possession of 8 packets of heroin each weighing 1 kg, whereas in a case involving 26 kg of heroin i.e. CRA-D-598-DB of 2010 (*Avtar Singh @ Tari and another v. Narcotics Control Bureau, Chandigarh*), the Division Bench ('DB') of this Court reduced the sentence of the Appellant therein from R.I. of 15 years to R.I. of 11 years. Further, in a case involving 10 kg of heroin i.e. CRA-D-46-DB-2015 (*Parshotam Lal Sondhi v. Intelligence Officer, Directorate of Revenue Intelligence, Amritsar*), a DB of this Court reduced the sentence awarded from R.I. of 12 years to R.I. of 10 years. He has also referred to an order dated 23rd March, 2018 passed by the Supreme Court in Criminal Appeal No. 421 of 2014 (*Sanjeev Kumar @ Tota v. State of Punjab*) where in a case involving 10 kg of heroin, the sentence awarded was reduced from R.I. of 12 years to R.I. of 10 years.

4. Mr. H.S. Grewal, learned Additional Advocate General for the State of Punjab submits that while the Appellant has completed sentence of 10 years for conviction under Section 21 of the NDPS Act, he leaves it to the Court to decide on the quantum of sentence. He points out that the minimum fine amount for conviction under Section 21 of the NDPS Act is Rs.1,00,000/-.

5. The above submissions have been considered. In view of the statement made on behalf of the Appellant, the Court affirms his conviction for the offence under Section 21 read with Section 8 of the NDPS Act.

6. As regards the sentence, taking into consideration the circumstances noted hereinbefore and in light of the precedents, the Court is of the view that in the present case, the sentence awarded to the Appellant for conviction under Section 21 read with Section 8 of the NDPS Act should be modified to the period already undergone by the Appellant with the fine being reduced to Rs. 1,00,000/- and the sentence in default of payment of fine being maintained at R.I. for 1 year.

7. It is further directed that in the event of the Appellant paying the fine amount, and not being required in any other case, he will be immediately released from custody and taken to the Detention Centre at Amritsar, awaiting his departure to Nigeria by the first available flights that may become operational.

8. The appeal is disposed of in the above terms.

9. Since the main appeal is disposed of, the pending application for suspension of sentence is disposed of as infructuous.

**[S. MURALIDHAR]
JUDGE**

**[AVNEESH JHINGAN]
JUDGE**

July 20, 2020

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1. Whether speaking/ reasoned : Yes

2. Whether reportable : No