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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.A. 2313/2020, CRL.M.A. 4769/2020, CRL.M.A. 6373/2020
in CRL. A.1662/2014

BACHITTER SINGH & ANRAppellants

Represented by: Mr.Chetan Lokur, Adv.

versus

STATERespondent

Represented by: Mr. Hiren Sharma, APP for the
State

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER
19.05.2020

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The hearing has been conducted through Video Conferencing.

CRL.M.A. 6373/2020

1. By this application the appellant seeks early hearing of CRL.M.A. 4769/2020 seeking waiver of the fine amount or reducing the period in default sentence as the period already undergone and consequently disposing of the appeal.
2. Learned counsel for the appellant and respondent have no objection if the early hearing is allowed.
3. Application is accordingly disposed of taking up the CRL.A. 1662/2014 and CRL.M.A. 4769/2020 for hearing today.

1. Appellant has been convicted for offence punishable under Section 21(C) and 25 of the NDPS Act vide judgment of learned Special Judge dated 19th July, 2014 and directed to undergo rigorous imprisonment for a period of 10 years and to pay fine of Rs.2 lakhs in default whereof to undergo sentence of simple imprisonment for a period of six months on the two counts.
2. The in default sentence and the fine imposed for offence punishable under Section 21(C) NDPS Act is Rs.1 lakh and similar fine has been imposed for offence punishable under Section 25 NDPS Act and on both the counts the sentence in default of payment of fine is simple imprisonment for three months each.
3. As per the nominal roll the appellant has completed his substantive sentence on 22nd February, 2020. Besides appellant one Niyamat Masih was also convicted and was awarded sentence imprisonment for a period of 10 years and to pay a fine of Rs.1 lakh.
4. Niyamat Masih filed an application being Crl.M.A. 2313/2020 seeking reduction in the in default sentence which has already been allowed by this Court vide order dated 31st January, 2020.
5. Learned counsel for the appellant on instructions from the appellant does not challenge his conviction in the appeal and the prayer is only for reduction of the sentence in default of payment of fine.
6. As noted above, the in default sentence on the two counts is 3 months each, out of which the appellant has undergone nearly 2 months and 28 days i.e. nearly 3 months in default sentence.
7. Considering the fact that the co-convict Niyamat Masih has been given the benefit of reduction of in default sentence, this Court feels that the

appellant is entitled to parity and in default sentence of the appellant for his conviction under Section 21(C) and 25 (C) of the NDPS Act is directed to be reduced from 3 months each to the period already undergone.

8. Consequently, the appeal and application are disposed of upholding the judgment of conviction and modifying the in default sentence as noted above.

9. Superintendent Tihar Jail is directed to release the appellant forthwith if not required in any other case.

10. Copy of the order be uploaded on the website.

MUKTA GUPTA, J.

MAY 19, 2020

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