

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

CRA-D-838-DB-2016 (O&M)
Date of decision : 8.9.2021

Puran Singh

.....Appellant

Versus

Intelligence Officer

..... Respondent

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. L.S.Lakhanpal, Advocate
for the appellant.

Mr. Sandeep Vermani, Addl. .A.G, Punjab

Mr. Rajesh Sethi, Senior Standing Counsel with
Ms. Varinder Kaur Warraich, Junior Standing Counsel
for the respondent-DRI

AJAY TEWARI, J. (Oral)

1. This appeal has been filed against the judgment dated 28.7.2016 and order of sentence dated 30.7.2016 passed by the Special Court, Amritsar in complaint against the appellant for the offences punishable under Sections 21, 23, 25, 27A, 28, 29, 60 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (for short '*the NDPS Act*').

2. The sentence awarded to appellant is as under:-

Name of the convict	Under Section	Sentence		
		R.I	FINE (Rs.)	In default
Puran Singh	21(c) of NDPS Act	Rigorous imprisonment for a period of 14 years	1,00,000/-	In default of payment of fine to further undergo simple imprisonment for a period of 3 months
	23 of NDPS Act	Rigorous imprisonment for a period of 14 years	1,00,000/-	In default of payment of fine to further undergo simple imprisonment for a period of 3 months
	29 of NDPS Act	Rigorous imprisonment for a period of 14 years	1,00,000/-	In default of payment of fine to further undergo simple imprisonment for a period of 3 months

All the substantive sentences shall run concurrently.

3. Brief facts of the case are that on 19.10.2012 the official of the Directorate of Revenue Intelligence, Amritsar (DRI) had received information that certain contraband were coming from Pakistan in a Goods Train on 20.10.2012. When the Official of DRI were keeping a watch on the Railway station they observed that two persons were looking at various bogies and when they stopped near one bogey and tried to open the lock at that time they were sought to be arrested. One person managed to flee but the appellant was arrested. It was later found that there was about 23 packets of 'Heroin' weighing 23 kgs containing Diacetylmorphine (Heroin) falling in the commercial

quantity which they were trying to extract and give to their Principals. The appellant was tried and convicted to imprisonment for a period of 14 years and in default of fine of Rs. 3 lakhs he was to suffer simple imprisonment for a period of three months. Aggrieved against the conviction, the appellant filed the present appeal.

4. Learned counsel appearing for the appellant states that he would not press this appeal on merits but in this case the appellant is obviously a minnow. He is an illiterate person who worked as a Porter and it was his first offence. The real masterminds who had smuggled the consignment could not be brought to trial. It is his contention that in these circumstances, the sentence of 14 years is too harsh. He states that the appellant has undergone almost 9 years and prays that the sentence be reduced to that the appellant has already undergone.

5. Custody certificate dated 7.9.2021 has been filed by way of affidavit of Kuldip Singh, PPS, Deputy Superintendent Central Jail, Amritsar on behalf of the State, the same is taken on record. Copy has been supplied to the opposite counsel. As per the custody certificate, the applicant has undergone actual custody (including custody as undertrial) of 8 years 10 months and 15 days out of total sentence of 14 years.

6. Mr. Rajesh Sethi, Senior Standing Counsel has very fairly accepted that there is no other case pending against the appellant but has stated that where recovery is of 23 kg of heroin reducing the sentence to that which he has already undergone would not send a right signal but he would abide by whatever sentence this Court may feel appropriate to reduce in the facts and circumstances of this case.

7. Keeping in view the totality of circumstances, we have considered submissions of the learned counsel for the parties and perused the record, thus, uphold the judgment of the trial court, however, looking to all the facts and circumstances of the present case that we find that the ends of justice will be sub-served in reduce the sentence of the appellant from 14 years to 10 years while upholding his conviction with a clarification that the sentence/s in default of payment of fine would run consecutively. Ordered accordingly. The appeal is partly allowed to the extent as indicated above.

8. Since the main case has been decided, the pending application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(ALKA SARIN)
JUDGE

08.09.2021
anuradha

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