

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

CRA-S-1871-SB-2007

Date of decision:-4.5.2022

Chamkaur Singh

...Appellant

Versus

State of Punjab

...Respondent

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

Present: Mr.R.S. Gill, Advocate for  
Mr.P.S. Sekhon, Advocate  
for the appellant.

Mr.Anmol Singh Sandhu, AAG, Punjab.

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**H.S. MADAAN, J.**

1. Appellant/accused Chamkaur Singh, aged about 28 years, labourer by avocation, resident of village Didargarh was tried by Judge, Special Court, Sangrur in case FIR No.67 dated 28.8.2005 for an offence under Section 15 of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as '**the Act**'), Police Station Sherpur and in terms of judgment dated 11.9.2007, the accused/appellant was convicted in that case for the offence under Section 15 of NDPS Act and vide order of even date, he was sentenced to undergo rigorous imprisonment for six months and to pay a fine of ₹1,000/- and in default thereof to further undergo rigorous imprisonment for a period of one month.
2. Briefly stated, the facts of the case as per prosecution version are that on 28.8.2005, a police party headed by ASI Darshan Singh while being on duty in connection with patrolling and checking of suspicious

persons travelling in official vehicle No.PB-13-K-791 and being present at a place 1 km. ahead of village Didargarh, when the time was about 2:30 p.m., spotted accused Chamkaur Singh coming from village Ghanauri side carrying a plastic bag having contents on his head. On seeing the police party, he got perplexed and turned back. He was apprehended on the basis of suspicion and his name and address were inquired about, which he disclosed. Search of the bag being carried by accused was conducted as per rules and it was found to contain 9 kgs. of poppy husk, out of which two samples of 250 gms. each were taken out. The samples and remainder were converted into sealed parcels and taken into police possession. The ruqa was sent to the police station. Accused was arrested in this case. On return to the police station, the accused and case property were deposited with the MHC of the police station, after producing those before ASI Gurdev Singh, the SHO of the police station, who had verified the facts from the accused and witnesses and had put his own seal on the sample parcels and bulk parcel. During the investigation, the sample parcel was sent to the office of Chemical Examiner, Punjab and as per report received therefrom, it was found to be that of poppy husk. On completion of investigation, accused was sent up to face trial.

3. Feeling aggrieved by the said judgment of conviction and order of sentence (supra), the accused/appellant Chamkaur Singh had preferred the present appeal before this Court, which was put up on 20.9.2007 when it was Admitted for regular hearing and on an application having been filed by the appellant/accused for suspension of his sentence of imprisonment during the pendency of appeal, the remaining sentence of

the appellant was ordered to be suspended during the pendency of appeal on 18.10.2007. Now the case has come up for regular hearing.

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

5. At the very outset, learned counsel for the appellant states that he does not challenge the judgment on the point of conviction but wants to make submissions with regard to sentence.

6. Learned counsel appearing for the appellant has contended that the appellant/accused was of young age of 28 years at the time of recovery; he is married having children; he is only earning member of the family and he is a first offender. He has further contended that the appellant/accused has already undergone imprisonment of 2 months and 3 days and the recovery involved in this case amounts to non-commercial quantity, as such a lenient view in the matter be taken.

7. Whereas learned State counsel has contended that sentence awarded to the appellant is not on higher side and does not call for any reduction.

8. After hearing the learned counsel for the parties, I find that the prayer made by learned counsel for the appellant deserves to be accepted for various reasons. Firstly, the contraband recovered from the appellant/accused amounts to non-commercial quantity. Secondly, the appellant is not shown to have any past criminal record. Similarly, there is nothing on record to show that he had indulged in any criminal activity after suspension of his remaining sentence and releasing him on bail during the pendency of the appeal. Furthermore, he has already undergone

actual sentence of two months and 3 days out of the substantive sentence awarded to him.

9. In that way, while upholding the judgment of conviction passed against the appellant/accused, the order of sentence is modified and his sentence is reduced to one already undergone by him in this case. Whereas, the fine part is kept as intact. The appellant/accused may deposit the amount of fine in the trial Court within one month from today and in case of default of payment of fine, the appellant/accused shall be liable to be taken into custody and made to undergo sentence in default of payment of fine.

10. As such the appeal challenging the impugned judgment stand disposed of with above modification in sentence.

Necessary intimation be sent to Chief Judicial Magistrate, Sangrur for necessary compliance.

4.5.2022  
**Brij**

**(H.S.MADAAN)**  
**JUDGE**

**Whether reasoned/speaking : No / Yes**

**Whether reportable : No / Yes**