

CRA-S-1645-SB-2004

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

CRA-S-1645-SB-2004 (O & M)

Date of decision:08.09.2022

Mukhtiar Singh

...Appellant

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Ashwani Verma, Advocate,
for the appellant.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Custody certificate by way of affidavit of Deputy Superintendent, Central Jail, Hisar, has been filed in the Court today. The same is taken on record.

Present criminal appeal has been preferred by the appellant against judgment of conviction dated 11.08.2004 and order of sentence dated 12.08.2004 passed by learned Addl. Sessions Judge, Fatehabad, in case FIR No.386 dated 03.12.1999, registered at Police Station Ratia, wherein the appellant was convicted for the offence punishable under Section 18(b) NDPS Act and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.5,000/-, in default thereof, to further undergo rigorous imprisonment for a period of six months.

As per the prosecution version, the present appellant was found in possession of 350 gram opium.

Learned counsel for the appellant submits that he is not pressing this appeal on merit and is not challenging the conviction on

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merit. He is only aggrieved against the sentence part. Learned counsel for the appellant prays that the sentence of the appellant be suitably reduced as this criminal trial is hanging on his head like Damocle's sword for more than 22 years and it should be a sufficient mitigating circumstance to treat him leniently. Learned counsel further submits that FIR relates to the year 1999 and since then a period of more than 22 years has elapsed. The appellant has suffered the ordeal of trial for this long period. Learned counsel further submits that the appellant has already undergone the actual sentence of 02 months and 27 days. In support of his contentions, the learned counsel relies upon Gurjit Singh @ Kali Vs. State of Punjab 2017 (4) Law Herald 3402.

On the other hand, learned State counsel opposes the aforesaid prayer made by the learned counsel for the appellant.

I have heard the learned counsel for the parties and perused the record and even as per custody certificate, the appellant is not involved in any other case.

I need not dilate upon the facts of this case in detail as the same have already been recapitulated in the judgment of the learned Court below and in view of the ultimate prayer of the appellant seeking reduction in sentence.

In view of the arguments advanced by learned counsel for the appellant and law laid down in Gurjit Singh @ Kali's case (supra), this Court is of the view that no useful purpose would be served by sending the appellant behind the bars. It is a fit case wherein sentence awarded to the appellant can be reduced to the period already undergone. Therefore,

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sentence imposed upon the appellant is reduced to the period already undergone by him in the present case. However, sentence of fine and default clause shall remain intact. The impugned order of sentence, fine and conviction, including default clause, stand affirmed with aforesaid modification. The appellant is directed to deposit the aforesaid amount of fine as imposed by the trial Court, within a period of three months from the date of receipt of copy of this order. It also goes without saying that in case, the amount of fine is not deposited, the present revision petition shall stand dismissed automatically.

Disposed of in the aforementioned terms.

08.09.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No