

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

CRA-S-1187-SB-2006 (O&M)

Date of decision: 02.05.2022

Partap Singh

...Appellant

Versus

State of Punjab

...Respondent

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

Present: Mr. Rajat Dogra, Advocate for
Mr. SPS Sidhu, Advocate for the appellant.

Mr. Anmol Singh Sandhu, AAG, Punjab.

H.S. MADAAN, J. (Oral)

The present appeal is directed against judgment dated 30.03.2006, passed by Judge, Special Court, Amritsar, vide which he had convicted appellant/accused Partap Singh son of Inder Singh, resident of Village Kirtowal, District Amritsar in case FIR No.57 dated 21.05.2002, for an offence under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station Goindwal Sahib, sentencing him to undergo rigorous imprisonment for 03 years and to pay fine of Rs.10,000/-; in default of payment of fine, to further undergo RI for 03 months, having been found in possession of 49½ kg of poppy husk.

2. Briefly stated facts of the case as per prosecution story are

that on 21.05.2022, a police party from Police Station Goindwal Sahib headed by SI Pargat Singh, while being present in the area of Village Fatehabad in connection with patrolling, had received a secret information that appellant/accused Partap Singh was waiting for a customer for selling poppy husk, while sitting in pits near Dera Radha Swami and if a raid was conducted, he could be caught red handed; Finding the information to be reliable, the police party conducted a raid at the disclosed place and apprehended Partap Singh, while sitting on the gunny bags; on seeing the police party, he tried to run away but was apprehended; three gunny bags on being searched as per rules in the presence of DSP Goindwal Sahib were found to contain poppy husk; after removing 250 gms from each bag as sample and preparing sealed parcels thereof. The accused was arrested in this case; the contraband and samples were taken into police possession; on return to the police station, the case property along with accused were produced before SHO concerned, who had put his own seal thereon; formal FIR was registered; the case property along with sample parcels were deposited in the malkhana of Police Station Goindwal Sahib; during the course of investigation, samples were sent to the office of Chemical Examiner and as per report received there from, those were found to be of poppy husk; on completion of investigation and other formalities, the accsued was sent up to face trial.

3. Feeling aggrieved by judgment of his conviction and

sentence, accused/convict had approached this Court, by way of filing an appeal, which was Admitted for Regular hearing on 07.07.2006 and vide order dated 11.09.2006, on an application under Section 389 Cr.P.C, having been filed by the appellant, his remaining sentence was suspended. Now the appeal has come up for final hearing.

4. I have heard learned counsel for the appellant/convict, learned State counsel besides going through the record.

5. Learned counsel for the appellant/accused at the very outset has stated that he does not challenge the impugned judgment on the point of conviction and has got only submissions to make with regard to the sentence. According to him, the appellant/accused is a poor person working as a labourer; he is sole bread winner of his family; he is presently aged more than 71 years, not keeping good health; more than about 20 years have been elapsed from the date of recovery and he has not indulged in any criminal activity after being granted the benefit of suspension of sentence and release on bail; he has already undergone 01 year, 03 months and 11 days of total sentence in terms of the custody certificate placed on record by the State counsel, therefore, the order of sentence be modified and sentence of imprisonment be reduced substantially.

6. Whereas, this prayer is being opposed by learned State counsel.

7. After hearing the rival contentions, considering the fact

that about 20 years have elapsed from the date of recovery till date; the appellant is stated to be aged more than 70 years, a poor person, working as a labourer and furthermore, there is nothing on record to show that after suspension of his sentence in this case and release on bail, he has indulged in any criminal activity, therefore, ends of justice shall be adequately met, if his sentence is reduced to already undergone in this case, while maintaining the fine part as such. It is ordered accordingly.

8. Let the amount of fine be paid in the Court of CJM, Amritsar, within one month from today, otherwise, CJM, Amritsar would issue warrants of arrest against the appellant/accused, so as to make him undergo sentence in default of payment of fine.

9. Accordingly, the appeal challenging the impugned judgment stands disposed of, upholding the conviction of the appellant/accused, whereas, the sentence part is modified as detailed above. Necessary intimation be sent to CJM, Amritsar for compliance.

02.05.2022

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(H.S. MADAAN)
JUDGE

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