

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

CRA-S-1973-SB-2005(O&M)

Date of decision:-12.5.2022

Rishi Sharma

...Appellant

Versus

State of Punjab

...Respondent

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

Present: Mr.D.S. Dalee, Advocate
for the appellant.

Mr.Anmol Singh Sandhu, AAG, Punjab.

H.S. MADAAN, J.

1. Appellant/accused Rishi Sharma was tried by Judge, Special Court, Sangrur in case FIR No.209 dated 25.12.2002 for an offence under Section 18 of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as '**the Act**'), Police Station Dirba, on the allegations that on 25.12.2002 at about 4:30 p.m. in the area of village Khetla within jurisdiction of Police Station Dirba, when apprehended by the police party led by SI Ravinder Singh, he was found in possession of 1 k.g. of opium without any permit or licence. In terms of judgment dated 5.11.2005, the accused/appellant was convicted in that case for the offence under Section 18 of NDPS Act and vide order of even date, he

was sentenced to undergo rigorous imprisonment for 2 years and to pay a fine of ₹2,000/- and in default thereof to further undergo rigorous imprisonment for a period of 6 months.

2. Feeling aggrieved by the said judgment of conviction and order of sentence (supra), the accused/appellant Rishi Sharma had preferred the present appeal before this Court, which 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 6.1.2006. Now the case has come up for regular hearing.

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

4. 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.

5. Learned counsel appearing for the appellant has contended that the appellant/accused was of young age of 27 years at the time of recovery and more than about 19 years have elapsed from the date of recovery till date; he is not shown to have any past criminal record and there is nothing on record to show that he has indulged in any criminal activity after his remaining sentence was suspended during the pendency of this appeal and releasing him on bail vide order dated 6.1.2006; the appellant is a poor man; he is only earning member of the family. He has further contended that as per the custody certificate filed by the State

counsel, the appellant/accused has already undergone imprisonment of 11 months and 5 days and the recovery involved in this case amounts to non-commercial quantity, which does not attract minimum sentence, as such a lenient view in the matter be taken.

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

7. 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, 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 11 months and 5 days out of the substantive sentence awarded to him.

8. 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 is directed to 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 by Chief Judicial Magistrate, Sangrur by issuing Non-bailable warrants of arrest against him.

9. As such the appeal challenging the impugned judgment stands disposed of with above modification in sentence.

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

12.5.2022
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : No / Yes

Whether reportable : No / Yes