

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

CRA-S-36-SB-2013

Date of decision:-25.4.2022

Pushpinder Singh

...Appellant

Versus

State of Haryana

...Respondent

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

Present: Mr.R.S. Chauhan, Advocate;
Ms.Deepika Chauhan, Advocate; and
Mr.Rohit Sapehiya, Advocate
for the appellant.

Mr.S.S.Pannu, DAG, Haryana.

H.S. MADAAN, J.

Appellant/accused Pushpinder Singh was tried by Judge, Special Court, Panipat in case FIR No.682 dated 22.5.2011, under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as '**the Act**'), Police Station City, Panipat, on the allegations that on 22.5.2011 in the area of P.S. City, Panipat, he was apprehended by the police party and he was found in conscious possession of 11 kgs.700 gms. of poppy husk. The accused was accordingly arrested. The contraband was seized. After completion of investigation and other formalities, he was challaned and sent up to face trial. The trial ended in his conviction and vide judgment dated 22.12.2012, he was convicted for the offence under Section 15 of NDPS Act and vide order of even date, he was sentenced to undergo rigorous imprisonment for four years and to pay a fine of ₹10,,000/- and in default thereof to further undergo rigorous

imprisonment for a period of six months.

Feeling aggrieved by the said judgment of conviction and order of sentence, the accused/appellant had preferred the present appeal before this Court, which came up for hearing on 8.1.2013 when it was admitted and recovery of fine was ordered to remain stayed during the pendency of the appeal. On an application having been filed by the appellant/accused for suspension of his sentence of imprisonment during the pendency of appeal, the same was allowed on 22.5.2013

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

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 only.

Learned counsel for the appellant has contended that the recovery involved in this case amounts to non-commercial quantity; as per the custody certificate filed by the State counsel, the appellant has undergone 5 months and 24 days out of the total sentence of imprisonment awarded to him; he is not involved in any other case; he does not have any past criminal record; the appellant is married having three daughters; the incident had taken place about 11 years earlier, as such a lenient view in the matter be taken.

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

After hearing the learned counsel for the parties, I find that

the prayer made by learned counsel for the appellant can be accepted for various reasons. Firstly, the contraband recovered from the appellant/accused amounts to non-commercial quantity. Secondly, the judgment of his conviction and order of sentence was passed about 11 years back and from that date till now, the appellant is not shown to have indulged in any criminal activity.

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.

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

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

25.4.2022
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(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : No / Yes

Whether reportable : No / Yes