

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

CRA-S-2807 -SB of 2012 (O&M)

Date of Decision: 19.04.2022

Harjit Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. R.S. Mamli, Advocate for the appellant.

Mr. R.S. Khaira, AAG, Punjab.

HARINDER SINGH SIDHU, J

Appellant has preferred this appeal against the judgment and order of sentence dated 17.08.2012 passed by the learned Special Court, Rupnagar in case FIR No.71 dated 09.07.2009 whereby he has been convicted under Section 18 of NDPS Act for having been found in possession of 140 grams of opium and sentenced to undergo RI for six months along with fine of Rs.3000/-.

Learned counsel for the appellant submits that he is not contesting conviction of appellant on merits but submits on quantum of sentence. He states that the appellant's family owned only two acres of agricultural land, which was sold by them so as to settle down in New Zealand. Father of the appellant expired on 11.04.2019 when he had gone to New Zealand to visit his daughter. The appellant was permitted to go abroad for a period of two months from 09.05.2019 to 08.07.2019 in order to enable him to perform last rites of his father. He submits that the FIR is of the year 2009. The petitioner is a first offender. No other criminal case

either under the provisions of NDPS Act or IPC has been registered against him after the registration of the present FIR. He states that because of the pendency of the present case, he has not been able to immigrate to New Zealand where he wishes to permanently settle along with his family to earn his livelihood. The appellant has already undergone actual custody of two and half months.

On consideration of the totality of the facts and circumstances of this case and also bearing in mind the custody period undergone by the appellant, present appeal is partly allowed to the extent that the conviction of the appellant under Section 18 of NDPS Act is maintained but his sentence is reduced to the period already undergone by him subject to the condition that the appellant pays fine of Rs.20,000/-.

Disposed of accordingly.

April 19, 2022
manoj

(Harinder Singh Sidhu)
Judge

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