

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

379

**CRA-S-1642-SB-2004
Decided on : 23.02.2023**

Rajender Singh

... Appellant(s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Dinesh Arora, Advocate
for the appellant(s).

Mr. Vikas Bhardwaj, AAG, Haryana.

SANJAY VASHISTH, J. (Oral)

Present appeal was filed by the convict – Rajender Singh (appellant herein) s/o Dariyao Singh, against the judgment of conviction dated 16.07.2004, and order of sentence dated 19.07.2004, passed by Ld. Special Judge, Rohtak, in NDPS Case No. 83 of 2002, dated 19.10.2002, arising out of FIR No.404, dated 25.07.2002, lodged under Section 21 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (for brevity ‘NDPS Act’), registered at P.S. Civil Lines, Rohtak.

For possessing 500 grams of Smack (Heroin) without there being any permit/licence, appellant was convicted under Section 21(c) of the NDPS Act, and was sentenced to undergo RI for 10 years, and to pay a fine of Rs.1,00,000/-. In default of payment of fine, he was further directed to suffer RI for two years.

Challenging the aforesaid judgment of conviction dated 16.07.2004 and order of sentence dated 19.07.2004, present appeal i.e. CRA-S-1642-SB-2004, was instituted by the appellant in the year 2004. On

05.01.2023, following order was passed:-

“Learned counsel for the appellant submits that as per the impugned judgment, appellant was aged 56 years, and after granting of bail by this Court vide order dated 28.01.2005, his office could not contact with the appellant, despite of making best efforts.

Learned counsel for the appellant seeks one more opportunity to seek necessary instructions in the matter.

In the interest of justice, adjourned to 23.02.2023

At the outset, learned State counsel has filed the custody certificate dated 04.01.2023, of the appellant, in Court today, which is taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

A copy thereof has been handed over to the counsel for the appellant.

Since, learned counsel for the appellant has not been able to contact with the appellant despite his best efforts, therefore, he is not definite, if the appellant is really interested in arguing the appeal through him.

Let registry to issue a notice to the appellant as well, about the next date of hearing fixed before this Court.”

Today, learned State counsel has filed reply dated 20.02.2023, by way of affidavit of Mahesh Kumar, HPS, DSP, Rohtak, on behalf of the respondent-State, in Court today, which is taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

A copy thereof has been handed over to the counsel for the appellant.

According to the aforesaid reply, appellant – Rajender Singh, has expired on 29.08.2018, due to heart attack. Photocopy of the death certificate is annexed with the aforesaid reply as Annexure R-3. Para Nos. 3 & 4 of the said reply are reproduced herein-below:-

“3. That in compliance of order of the Hon'ble High Court the I.O. has approached to the house of appellant in village-Sunaria Distt.-Rohtak and recorded the statement of Smt. Prem Malik W/o Late Rajender Singh and recorded her statement. As per statement of wife of appellant namely Smt. Prem Malik her husband has expired She on 29/8/2018 disclosed that prior to death of her husband alongwith family MISSION 89 EKHA El Ho 2835/2019 was residing at H.No.2455 Housing Board, Sector-3, Rohtak in rented house and now she has been shifted in Village-Sunaria, Distt. Rohtak. She has produced the death certificate of her husband, which was taken into possession by the I.O. The statement is attached as Annexure-R1.

4. That the I.O. has moved an application to Registrar Birth & Death, Rohtak and has moved an application to issue certified copy of death certificate of Rajender Singh. Upon which the Registrar Birth & Death, Rohtak has supplied the death certificate of Late Rajender Singh in been shown as 29/8/2018. Copy of application and death certificate is attached as Annexure-R2 & which date of death of Late Rajender Singh has R3.”

In view of the above noted circumstances, present appeal stands abated, and same is disposed of as such. However, same would be subject to the terms & conditions, passed by this Court in **Shivji Ram @ Dimple Vs. State of Punjab**, 2022 SCC Online P&H 3759 (Law Finder Doc Id # 2076392).

Appeal stands disposed of.

**(SANJAY VASHISTH)
JUDGE**

February 23, 2023

J.Ram

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