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CRM-36048-2016 in CRA-S-1149-SB-2016

Jasbir Singh vs. State of Punjab

* * *

Present : Mr. Vipin Mahajan, Advocate
for the applicant-appellant.

Ms. Himani Arora, AAG, Punjab.

* * *

This is application under Section 389 Cr.P.C. for suspension of sentence of the applicant-appellant during pendency of the present appeal.

The applicant-appellant is convicted under Section 22 of the NDPS Act, vide order dated 26.02.2016 passed by learned Judge, Special Court, Gurdaspur, in case FIR No.87 dated 03.11.2012, registered at Police Station Kotli Surat Malhi, District Gurdaspur as he was found in possession of 198.8 grams of Diphenoxylate and 59.64 grams of Dextropropoxyphen and was accordingly ordered to undergo RI for a period of ten years and to pay a fine of Rs.1,00,000/-. In case of default in payment of fine, he was further ordered to undergo RI for one year.

Learned State Counsel has filed the latest Custody Certificate dated 28.01.2023 of the applicant-appellant, which is ordered to be taken on record.

As per the Custody Certificate, the applicant-appellant has already undergone sentence of 04 year 10 months and 16 days, out of total imprisonment awarded to him, including 02 months and 01 day as under-trial.

Learned counsel for the applicant-appellant has submitted that

the applicant-appellant has already undergone almost half of the sentence awarded to him and the sentence of fine already stands suspended, therefore, remaining sentence of the applicant-appellant be also suspended during pendency of the appeal.

On the other hand, learned State counsel has opposed the prayer made by learned counsel for the applicant by submitting that a person in conscious possession of contraband does not deserve the concession of suspension of sentence awarded to him.

Heard.

In view of the submissions made by counsel for both sides and also keeping in view the fact that disposal of appeal may take a long time, the remaining sentence awarded to the applicant-appellant is ordered to be suspended during pendency of the present appeal. The applicant-appellant is directed to be released on bail, on his furnishing bail bonds/surety bonds, to the satisfaction of learned Trial Court/Duty Magistrate, Gurdaspur.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

January 30, 2023

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**(GURBIR SINGH)
JUDGE**