

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-3697-SB-2014 (O&M)

Date of Decision: 25.08.2023

Baldev Singh @ Debu

...Appellant

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gautam Kumar, Advocate for
Mr. Satnam Singh Gill, Advocate
for the appellant.

Ms. Ishma Randhawa, Addl. Advocate General, Punjab.

HARPREET SINGH BRAR, J. (Oral)

1. The present appeal has been filed at the instance of appellant-Baldev Singh against the judgment of conviction dated 05.08.2014 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the NDPS Act) and order of sentence dated 05.08.2014, vide which he was sentenced to undergo rigorous imprisonment for six months for the commission of said offence and to pay fine of Rs.500/- and in default thereof, to undergo further rigorous imprisonment for 15 days, passed by the learned Judge, Special Court, Patiala in case FIR bearing No.35 dated 14.06.2012 registered under Section 15 of the NDPS Act at Police Station Ghagga, District Patiala.

FACTUAL BACKGROUND

2. In brief, the prosecution case is that on 14.06.2012, Sub- Inspector Nasib Singh, In-charge, Police Post Badshahpur along with other police officials, while being on patrolling duty, was present in the area of Village Bakraha. One Ranjit Singh met the police party there and when they were busy in talks, they noticed that a person was coming on foot from the side of Village Sadharanpur carrying a

loaded plastic bag on his head. On seeing the police party, he got perplexed and tried to turn back. On the basis of suspicion, the police party apprehended the said person and on inquiry, he disclosed his name as Baldev Singh. Sub-Inspector Nasib Singh, while disclosing his identity to Baldev Singh, apprised him that he suspects him to be carrying some contraband in his plastic bag and therefore, he intends to conduct a search on his person as well as of the plastic bag. He also apprised Baldev Singh of his right to be searched in the presence of a Gazetted Officer or a Magistrate but Baldev Singh reposed faith in Sub-Inspector Nasib Singh and accordingly, his consent memo was prepared. The search of the bag was then conducted by Sub-Inspector, which led to recovery of poppy husk. Two samples of 100 grams each were separated and residue poppy husk weighed to be 9 kgs 980 grams. Separate parcels of the samples and the residue poppy husk were prepared and were sealed with the seal bearing impression 'NS'. Sample seal was separately prepared and all parcels along with sample seal were taken into possession vide separate memo. Statement of witnesses were recorded. Ruqa was sent to the police station, which led to registration of the FIR against the accused. Various other proceedings were also conducted at the spot. One sample parcel was sent for chemical examination and as per report of the Chemical Examiner, the said contents were reported to be of "Chura Poppy heads".

3. On completion of investigation, the accused was sent up to face trial for the commission of offence punishable under Section 15 of the NDPS Act, 1985. Challan was presented and after completion of formalities as envisaged under Section 207 Cr.P.C., charges were framed against the accused under Section 15 of the NDPS Act, 1985, to which the accused pleaded not guilty and claimed trial.

4. To prove its case, the prosecution examined as many as five witnesses and closed its evidence. On closure of the prosecution evidence, all the incriminating

circumstances were put to the accused under Section 313 Cr.P.C, who denied all the allegations and claimed innocence but led no evidence in his defence.

5. The trial Court after hearing arguments raised by both sides and after having perused the evidence led, has convicted and sentenced the appellant as stated above.

CONTENTIONS

6. Learned counsel appearing for the appellant contends that the appellant does not want to assail the impugned judgment of conviction dated 05.08.2014 on merits and restricts his prayer only qua quantum of sentence. He further contends that the appellant has reformed and intends to live a fruitful and peaceful life. It is also contended by learned counsel for the appellant that the sentence imposed upon the appellant to undergo rigorous imprisonment for six months has already been undergone by him and therefore, prayed that the instant petition may be disposed of as such.

7. Learned State counsel contends that the learned trial Court has passed a well reasoned judgment based on correct appreciation of evidence available on record, however, the fact that the appellant has already undergone the sentence imposed upon him is not disputed.

ANALYSIS AND OBSERVATION

8. This Court has heard learned counsel for the parties and has gone through the record of the case with their able assistance.

9. Undisputedly, the FIR in question was registered on 14.06.2012 and the appellant has already undergone the sentence imposed upon him on 27.12.2014.

10. As per the custody certificate produced by the learned State counsel, the appellant remained in custody as under trial from 15.06.2012 to 23.07.2012 and

after his conviction, has undergone custody from 05.08.2014 to 27.12.2014, thus, he has completed the sentence imposed upon him on 27.12.2014.

11. A perusal of the judgment of conviction passed by the trial court indicates no perversity in the findings of the trial court and the same are based on correct appreciation of evidence available on record. Counsel for the appellant has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua quantum of sentence.

CONCLUSION

12. The learned counsel for the appellant has at the very outset submitted that the appellant does not intend to assail the impugned judgment of conviction dated 05.08.2014 on merit and has no grievance against the judgment of conviction, as he has already completed his sentence. The above position was not disputed by the learned State counsel, rather she affirms that the appellant has already completed the sentence of six months as imposed upon him by the learned trial Court. Faced with the situation when the appellant himself is not pressing the appeal on merits, even to the extent of removal of stigma attached to him on account of his conviction, learned counsel for the appellant contends that he has no grievance if the present appeal is disposed of in terms of the sentence already undergone, as the appellant is not in public employment and he already stands convicted in another FIR bearing No.32 dated 31.01.2011 registered under Section 15 of the NDPS Act at Police Station Patran.

13. Consequently, the judgment of conviction dated 05.08.2014 passed by the learned Special Court, Patiala convicting the appellant is upheld. However, keeping in view the prayer made by counsel for the appellant that the present appeal may be disposed of as the appellant has already undergone the sentence

imposed upon him, no further orders are required and the instant appeal is disposed of as such.

14. Pending miscellaneous application(s), if any, shall also stand disposed of.

15. The case property, if any, may be dealt with as per rules after expiry of period of limitation for filing the appeal(s). Record of the case be sent back to the Court below.

(HARPREET SINGH BRAR)
JUDGE

August 25, 2023
Pankaj*

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No