

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

231

CRA-S-645-SB/2018(O&M)

Date of decision: 17.04.2023

SAHIBJIT SINGH @ BAHU

....appellant

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr. Amrinder Pratap Singh, Advocate
for the appellant.

Mr. Gurdarshan Singh Sidhu, AAG Punjab.

DEEPAK MANCHANDA J.

1. Present appeal has been preferred against the judgment of conviction and order of sentence dated 18.12.2017 passed by the Judge, Special Court, Sangrur, whereby appellant has been convicted under Section 21 of NDPS Act and was sentenced to undergo rigorous imprisonment for 1 year along with fine of Rs. 15,000/- and in default of payment of fine to further undergo rigorous imprisonment for three months.

2. Briefly stated, facts of the present FIR are that on 12.04.2017, when police party was checking the vehicles, at about 6.50 PM a white Verna car bearing registration No. PB 13AA-0830 was seen coming from Sunam side. On seeing the police party, the driver of the car tried to turn back the car, but the car stopped functioning in between of the road and on suspicion, the car was stopped and all three persons present in the car were apprehended. The appellant herein was driving the car in question and apart from him two other accused persons were also sitting therein. On suspicion, search was conducted and 50 grams of smack rapped in polythene was found from the possession of present

appellant. On searching the other two accused persons, 50+50 grams of smack was also recovered from their possession separately. Thereafter a ruka was prepared and Darshan Singh No. 26587 was sent to the police station for registering the case against the present appellant and other accused persons and accordingly the FIR was registered and the accused persons were arrested.

3. Finding a prima facie case against the accused, charge under Sections 21 of NDPS Act was framed against them, to which they pleaded not guilty and claimed trial.

4. In order to prove its case, the prosecution examined as many as 06 witnesses. Thereafter, statements of the accused persons under Section 313 Cr.P.C. were recorded and all the incriminating evidence was put to them, to which they pleaded not guilty and claimed innocence.

5. On the basis of evidence led, trial Court held the accused guilty and convicted all the three accused under Section 21 of NDPS Act. The appellant has been sentenced to undergo rigorous imprisonment for one year and to pay fine of Rs. 15,000/- and in default to further undergo rigorous imprisonment for three months.

6. Hence, the present appeal.

7. Learned counsel for the appellant today stated at bar that he does not wish to challenge the conviction and would confine his prayer to the quantum of sentence only. He further submitted that the appellant, apart from this case is involved in one other case i.e. FIR No. 118 dated 11.11.2017 under Section 61 of Excise Act registered at Police Station Chhajali, District Sunam, in which he is on bail. Learned counsel submits that the appellant has undergone 07 months and 21 days out of 1 year of sentence awarded to him. He therefore prays that the sentence be modified to the period already undergone.

8. Opposing, the learned counsel for the State submits that the learned Court below after appreciating every aspect of the matter has rightly convicted and sentenced the appellant, therefore, he prays for the dismissal of the present appeal.

9. Heard.

10. Though, the appellant has given up his challenge to the conviction and has prayed for reduction of his sentence as having been undergone, in view of the mitigating circumstances, however, still this Court deems it appropriate to examine the judgment of the Court below. The learned trial Court had thoroughly examined the evidence and observed that the prosecution has proved its case beyond reasonable doubt against the appellant. Accordingly, the trial Court after having scrutinized the evidence on record has rightly convicted the appellant and there is no scope for interference in the findings recorded by the trial Court. As such, the conviction of the appellant is affirmed.

11. Regarding the prayer of the learned counsel for the appellant that in view of the aforestated mitigating circumstances, the sentence of the appellant may be reduced to the period already undergone, it is apposite to make a reference to the judgment of Hon'ble The Supreme Court of India in the case of **Haripada Das vs. State of W.B.** (1998) 9 SCC 678, Hon'ble The Supreme Court of India wherein it was held as under:

“....considering the fact that the respondent had already undergone detention for some period and the case is pending for a pretty long time for which he had suffered both financial hardship and mental agony and also considering the fact that he had been released on bail as far back as on 17-1-1986, we feel that the ends of justice will be met in the facts of the case if the sentence is reduced to the period already undergone....”

12. The observations as relevant to the present case, made by Hon'ble The Supreme Court in the case of **R.Soundarajan vs. Seed Inspector, Coimbatore and another**, 2006(4) RCR (Crl.) 645 read thus:-

"26. We have carefully perused the entire evidence and documents on record and heard the learned counsel for the parties at length. On consideration of the totality of the facts and circumstances of this case, particularly in view of the statement made by the learned counsel for the State, in our considered view, the ends of justice would be met, if the sentence of the appellants is reduced to the period already undergone by them. The appellants were released by this Court during pendency of these appeals and they are now not required to surrender. The fine as imposed by the trial Court, if not already paid, would be paid within four weeks from the date of this judgment."

13. It is settled proposition of law that each case is to be decided on its own peculiar facts and circumstances.

14. Keeping in view the mitigating circumstances as brought out by the learned counsel for the appellant in the present case, the ends of justice would adequately be met if the sentence of the appellant is ordered to be reduced to the period already undergone by him i.e. 07 months and 21 days out of 1 year awarded to him.

15. Accordingly, while upholding the conviction of the appellant in the criminal appeal, the sentence is ordered to be reduced to the period already undergone by appellant. Bail bonds/surety bonds stands discharged.

16. With the above modification in the order of sentence dated 18.12.2017 passed by Judge, Special Court, Sangrur, as noted above, the criminal appeal is partly allowed.

17. Pending application(s), if any, stands disposed off.

(DEEPAK MANCHANDA)
JUDGE

April 17, 2023

Ajay Goswami

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>