

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

**CRA-S-5313-SB-2015 (O&M)
Pronounced on :02.09.2023**

BILLU SINGH

... Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr. H. S. Jalal, Advocate (Legal aid counsel)
for the appellant.

Mr. Sandeep Vermani, Additional AG, Punjab.

RITU TAGORE, J.(Oral)

1. This appeal has been filed by the appellant-accused (Billu Singh), challenging the legality of his sentence solely on the basis that it is excessive and disproportionate to the alleged offence.

2. The appellant was arrested, tried and convicted for committing an offence punishable under Section 15(b) of Narcotic Drugs and Psychotropic Substances Act, 1985 (in short referred to as 'the Act') and was sentenced to three years of rigorous imprisonment along with a fine of Rs.30,000/-, and further three months of rigorous imprisonment in default of payment of fine. Furthermore, period of detention already undergone during the investigation and trial was ordered to be set off from the substantive sentence awarded to him.

3. Custody certificate dated 31.08.2023 as tendered on record by learned State counsel indicates that the appellant has already undergone actual period of sentence of 03 years, 02 months and 28 days (total 1183 days). The note of Superintendent, Central Jail, Faridkot, Punjab provides that the sentence of the appellant was completed on 29.04.2017 and he was

undergoing sentence RI for three months in default of payment of Rs.30,000/-. No other case is shown to be pending against him, as per the report.

4. Per prosecution version on 01.04.2012 in the area of village Singhawala, Kuldeep Singh, co-accused (since declared proclaimed offender) and Billu Singh, the appellant were intercepted by the Police for carrying a plastic bag on a scooter and on search, both were found to be in conscious possession of 20 kg of poppy husk. After completion of the investigation, challan against them was presented in the Court for their trial.

5. The copies of challan and other documents as relied upon by the prosecution were supplied to the appellant and co-accused Kuldeep Singh as mandated under Section 207 Code of Criminal Procedure, 1973 (for short Cr.P.C).

6. After finding a prima facie case, a charge under Section 15 of the Act was framed by the trial Court against the appellant and co-accused (Kuldeep Singh) to which they did not plead guilty and claimed trial.

7. Accordingly, prosecution was called upon to lead evidence, in order to prove its' case. However, during the trial, co-accused Kuldeep Singh absented from the proceedings, leading to his declaration as a proclaimed offender vide order dated 07.04.2014.

8. Prosecution examined one witness HC Chamkaur Singh as PW-1. On 13.04.2015, when the case was fixed for prosecution evidence, the appellant expressed his willingness to make a confessional statement by submitting an application for that purpose. The trial Court made him aware of the implications of making a confessional statement and also apprised him that he was under no obligation to make such a confession but the appellant

insisted on confessing his guilt. Learned trial Court having been satisfied that appellant's confession was voluntary and not influenced by any inducement or coercion from any quarter, permitted him to make said statement.

9. Accordingly, on basis of the confession made by the appellant for committing an offence punishable under Section 15(b) of the Act, he was accordingly held guilty and convicted thereunder. Appellant was sentenced as mentioned earlier after recording his plea on the quantum of sentence.

10. I have heard learned counsel for the appellant and the learned State counsel and have gone through the record.

11. Learned counsel for the appellant submits that since the appellant has already served the substantive sentence as well as the default sentence for non-payment of fine, appeal as such has become infructuous, and prays for issuance of an appropriate order.

12. Contra, learned State counsel submits that there is no merit in the appeal. The trial Court has imposed a condign punishment based on the nature of the offence committed by the appellant. Furthermore, submitted that considering the custody already undergone by the appellant, there is nothing remaining in the appeal and it has become infructuous. A prayer is made to dismiss the same.

13. The grounds of the appeal reveal that appeal was filed by the appellant on the basis that an excessive sentence was imposed by the trial Court after his confessing the guilt, which is not commensurate with the alleged nature of offence. Accordingly, a prayer is made to reduce the sentence, taking into consideration appellant's impoverished circumstances as the sole bread earner of his family.

14. It is a matter of record that the appellant has not challenged the order of his conviction on any grounds including his confession and admission of his guilt. Furthermore, during course of arguments, no challenge has been raised regarding the recording of confession pertaining to the offence charged against the appellant. From the record, it is evident that the appellant voluntarily suffered a confessional statement, admitting his guilt for committing the offence in question. Thus, it is firmly established on record that appellant was having in his conscious possession 20 kg of poppy husk, a contraband, without any permit or licence and thereby, committed an offence punishable under Section 15(b) of the Act. Taking into account the quantity of the contraband in question, the sentence so awarded to the appellant by the trial Court is both appropriate and commensurate with the nature of the offence as well as punishment. Therefore, there is no justification for reducing the sentence.

15. Admittedly, the appellant has already undergone the substantive period of sentence as well as the default sentence as indicated by the custody certificate dated 31.08.2023. Consequently, there is no merit in the appeal and is hereby dismissed.

16. No other point urged.

17. No further directions are warranted in this appeal in light of the above mentioned facts and circumstances.

(RITU TAGORE)
JUDGE

Pronounced on 02.09.2023

Rimpal

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