

CRA-S No.2922 of 2023 (O&M)

2023:PHHC:159900

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

234

CRA-S No.2922 of 2023 (O&M)
Date of Decision: 12.12.2023

SUKHCHAIN SINGH @ LADI

.....Appellant

Vs

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Vivek Goel, Advocate
for the appellant.

Mr. Viney Phogat, D.A.G., Haryana.

HARKESH MANUJA, J. (Oral)

[1]. By way of present appeal, challenge has been laid to judgment of conviction dated 05.08.2023 and order of sentence dated 08.08.2023 passed by Special Judge, under NDPS Act, Kaithal, in a case arising out of FIR No.161 dated 15.08.2018 under Section 21(b) of Narcotics Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred to as "NDPS Act") whereby the appellant was convicted and sentenced to undergo rigorous imprisonment for a period of 01 year alongwith fine of Rs 10,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a of 02 months.

[2]. According to the prosecution, appellant was apprehended on the basis of secret information at the bridge of canal Salempur on 20.05.2018 and 10 grams of Heroin was recovered upon personal search of appellant conducted in presence

of Deputy Superintendent of Police, Kaithal after giving him notice under Section 50 of NDPS Act (Ex. P9) and obtaining his reply/consent memo(Ex.P10) followed by his conviction and order of sentence as stated hereinabove.

[3]. Learned Counsel for the appellant has not challenged the order of conviction. However, he submits that appellant is a first-time offender, just 24 years old, sole bread earner of the family; also became a father recently and no other case of similar nature is pending or registered against him. He further submits that the contraband recovered from the appellant was of non-commercial quantity and out of the total sentence of 01 year, the appellant has already undergone more than 05 months of actual sentence. The appellant has been facing the agony of protracted trial for the last more than 5 years and thus, prays for some leniency be shown and remaining substantive sentence of imprisonment of the appellant be set aside/reduced.

[4]. Learned State Counsel however, vehemently opposes the prayer made by the learned Counsel for the appellant stating that appellant was found in conscious possession of heroin and, therefore, no leniency be shown to him. However, he has produced the custody certificate which indicates that as on 11.12.2023, the appellant has undergone an actual sentence of 05 months and 7 days. It has also been mentioned therein that no other criminal case is pending against him.

[5]. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the appellant.

[6]. Taking into consideration the totality of the circumstances narrated above, the petitioner being young boy; first conviction; not involved in any other

criminal case; having already undergone 05 months besides having faced protracted trial of over five years, in the humble opinion of this Court ends of justice would be best met if the substantive sentence of imprisonment of the appellant is reduced to the period already undergone by him.

[7]. Resultantly, the conviction of the appellant under Section 21(b) of NDPS Act is maintained and his substantive sentence of imprisonment is reduced to the period already undergone by him. But, for the modification in the quantum of sentence of fine, as indicated above, the appeal is disposed of accordingly.

[8]. All pending application(s), if any, shall stand disposed of.

December 12, 2023 Atik	(HARKESH MANUJA) JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No