

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

**CRA-S-595-SB-2018 (O&M)
Date of decision : 01.02.2023**

Chando

.....Appellant

versus

State of Punjab

..... Respondent

**CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. S.K. Arya Advocate
for the appellant.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

This appeal has been filed by the appellant impugning the order dated 01.02.2018 whereby learned Special Court has convicted the appellant for the offence under Section 22(a) of NDPS Act and sentenced him to undergo rigorous imprisonment for a period of one year along with fine of Rs.10,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month vide order of the even date in a case registered vide FIR No.122 dated 23.07.2015, under Section 22 of NDPS Act at Police Station Sadar Dhuri.

Adumbrated facts of the prosecution case put forward against the appellant was that on 23rd July, 2015, SI Anwar Ali along with LC. Harpal Kaur and other officials while on their patrolling duty, saw one lady coming on foot carrying a plastic bag in her right hand. On seeing the police, she became nervous and turned towards the rough path of Village Mullowal but on suspicion, she was apprehended. On enquiry, she disclosed her name as Chando wife of Balwinder Singh. The Investigating Officer disclosed his

identity and told her that he suspected some intoxicant substance in her plastic bag and wanted to search the same. He apprised the accused of her legal right of getting the search of bag and her personal search done in the presence of some Magistrate or Gazetted Officer by calling him at the spot. However, she reposed the confidence in the Investigating Officer and accordingly, gave the consent to be searched by the Investigating Officer. On instructions of Investigating Officer, LC Harpal Kaur conducted the search of appellant and that of the plastic bag from which 105 strips of Aldix tablets each strip containing 10 tablets were recovered. Out of the same, two strips were taken as sample and converted into parcels and remaining 103 strips were also converted into parcel. The necessary formalities were completed and the Investigating Officer produced the accused along with the case property before the Sub Divisional Judicial Magistrate, Dhuri. On completion of the investigation, challan was presented. Finding a *prima facie* case, charge was framed against the accused under Section 22 of NDPS Act. The prosecution produced six prosecution witnesses and thereafter closed the evidence. After recording of statement under Section 313 Cr.P.C. of the appellant. The defence produced two witnesses i.e. DW1 and DW2. Learned trial Court appreciated the evidence produced by both the sides after hearing the arguments, found the charge to have been proved by the prosecution against the accused. Thus, the appellant was convicted and sentenced accordingly. The same is under challenge before this Court by way of filing the present appeal.

Learned counsel for the appellant though has submitted before this Court that the appellant has undergone protracted trial for a considerable long time and she has also completed sentence of about 07 months out of 01 year rigorous imprisonment and hence, this appeal be disposed of by

reducing the sentence to the already undergone. He has relied upon the judgments titled as Surinder Kumar Vs. State of Punjab, 2019(3) Law Herald 2040; Rajinder Singh Vs. State of Punjab, 2019(4) RCR (Criminal) 711; Sahib Singh Vs. State of Punjab, 2017(4) Law Herald 3054.

Learned State counsel has opposed the contentions raised by learned counsel for the appellant and has stated that the appellant has committed a serious offence by keeping intoxicant tablets in her possession and as such, she does not deserve any leniency. He prays for dismissal of the appeal.

I have heard counsel for the parties and perused the record.

This Court finds it appropriate to re-appreciate the case on the basis of the merits as well. From the re-appreciation of the evidence on record, it is apparent that the prosecution produced six witnesses i.e. PW-1 to PW-6 as prosecution witnesses. From the conscious possession of the appellant, 1050 tablets of Aldix-05 containing ingredient of Alprazolam were found which were without any valid permit or license at the time when recovery was made. Inspector Anwar Ali, Investigating Officer appeared as PW-6 and the Lady Head Constable Harpal Kaur and Head Constable Gurbhajan Singh were produced as the recovery witnesses as PW-3 and PW-5 respectively. Various documents were produced by the prosecution which were duly exhibited. Whole case of the prosecution was put to the appellant while recording her statement under Section 313 Cr.P.C.. She deposed about her false implication and pleaded innocence. In defence, she produced two witnesses i.e. DW1 Amarjit Singh and DW2 Kala Singh Panch. By perusing the record, it is found that the defence could not shake the credibility of the prosecution witnesses. The link evidence was duly

proved. Though there was no independent witness, however, the same did not affect the credibility of the prosecution witnesses as the official witnesses duly proved the case of the prosecution. The FSL report received duly established the contraband recovered falling in the category of the prohibited drug as defined in NDPS Act. From the overall facts and circumstances and re-appreciation of the evidence, this Court do not find any infirmity in the conviction as ordered by the learned trial Court. However, the arguments raised by counsel for the appellant are that the appellant is first time offender and she has also completed about seven months of the sentence out of one year awarded. She has faced the protracted trial for sufficiently long time and thus, her sentence be reduced to the period already undergone.

After going through the facts and circumstances of the case and hearing the arguments raised by counsel for the parties, this Court finds no merits in the petition regarding conviction and accordingly the conviction is upheld. However, the Court finds merit in the submissions made by counsel for the appellant regarding reduction in the sentence of the appellant to the period already undergone. Appellant has already faced the protracted trial under Section 22 of NDPS Act and thus, the sentence awarded to her is reduced to the period i.e. 07 months 15 days already undergone by her. Sentence *qua* fine will remain intact. Accordingly, the appeal is disposed of.

01.02.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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