

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

**Neutral Citation No. 2024:PHHC:044857
CRA-S-377-2024 (O&M)
Date of Decision: April 03, 2024**

Mobina

...Petitioner

Versus

The State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Sanpreet Sandhu, Advocate for the appellant.

Mr. Randhir Singh, Addl. A.G., Haryana.

DEEPAK GUPTA, J.(Oral)

Custody certificate has been placed on record by learned State counsel, as per which, appellant has already undergone the custody period of 03 months and 24 days, out of 05 months sentence imposed upon her.

2. Appellant – Mobina wife of Faiju; alongwith co-accused Sahil alias Chocha S/o Faiju faced trial in case FIR No.428 dated 09.08.2019, under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred as ‘the NDPS Act’), registered at Police Station Yamuna Nagar, District Yamuna Nagar. Vide judgment dated 23.01.2024, though Sahil @ Chocha was acquitted but the appellant was convicted under Section 21 of the NDPS Act, as it was found that prosecution had successfully proved the recovery of narcotic substance, i.e. smack of 12.92 grams from her possession without any permit or licence. She was accordingly convicted vide judgment dated 23.01.2024. Vide a separate order of even date, she was sentenced to undergo rigorous imprisonment for a period of 05 months and to pay a fine of ₹5,000/- for committing the said offence with default sentence of 15 days.

3. Aforesaid conviction and sentence have been assailed in the present appeal.

4. However, today learned counsel for the appellant has made a statement, so as to withdraw the appeal against conviction. Learned counsel confines his prayer to assail the order of sentence only and has made a prayer for reduction of the sentence to the period already undergone by her.

5. Learned counsel for the appellant contends further that the appellant is a woman; that she is not involved in any other case nor is a previous convict; that she has already undergone custody of almost 04 months out of 05 months; and that so looking into the small quantity of contraband recovered from her, her sentence be reduced.

6. Learned State counsel has no serious objection to the concede to the aforesaid prayer.

7. Heard.

8. In view of the statement made by learned counsel for the appellant, the appeal against judgment of conviction dated 23.01.2024 is hereby dismissed as withdrawn. Even otherwise conviction is found to have been recorded on the basis of well proved evidence produced on record.

9. As far as, the impugned order of sentence is concerned, appellant has undergone the custody period of 03 months and 24 days. She has no other criminal case pending against her. The recovered quantity of contraband found from the possession of the appellant was 12.92 grams of smack, which was just above the small quantity, but much below the commercial category.

10. Learned counsel for the appellant submit that the appellant will deposit the fine of ₹5,000/- as imposed upon her.

11. Having regard to all the aforesaid facts and circumstances, the present appeal against the impugned order of sentence dated 23.01.2024 is hereby disposed of. The said order is modified by reducing the sentence of the appellant for the period already undergone by her. However, she has to pay the fine of ₹5,000/- as imposed by the Trial Court. It is made clear that in case, the said fine is not paid, the appellant will have to undergo the default sentence, as per order of the Trial Court.

Pending application(s) stands disposed of

April 03, 2024

sarita

(DEEPAK GUPTA)
JUDGE

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