

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRA-S-2425-SB-2004 (O&M)
Date of decision: 24.01.2024

Jaspal Singh @ Bilu

...Appellant

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Pritpal Singh Miglani, Advocate for
Mr. Amar Singh Sandhu, Advocate, for the appellant.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J.

1. Challenge in the present appeal is to the judgment/order dated 29.11.2004, passed by the learned Judge, Special Court, Amritsar, whereby the appellant was convicted and sentenced to undergo rigorous imprisonment for 1 year and to pay a fine of Rs.20,000/- and in default of payment of fine, to further undergo RI for three months, for the offence punishable under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act').
2. Briefly put, the facts culminating in the filing of the present appeal are that on 29.06.2002, when SHO Nirlap Singh alongwith other police officials raided on the medical store of the accused, they apprehended the accused possessing a bag. After apprising him about his rights, search was conducted in the presence of a Gazetted Officer and recovery of pills/capsules/injections containing narcotic/psychotropic substance was

effected. The requisite samples were drawn and sealed. Ruqa was sent on the basis of which an FIR was registered.

3. After completion of investigation, final report under Section 173(2) Cr.P.C. was presented in the Court against the accused. On finding a prima facie case, charges were framed against him, to which he pleaded not guilty and claimed trial.

4. The prosecution, in order to prove its case, examined as many as 2 witnesses. Thereafter, the statement of the accused was recorded under Section 313 Cr.P.C., whereby incriminating evidence was put to him, which he denied. He pleaded innocence and false implication.

5. The trial Court, after appreciating the evidence, came to the conclusion that prosecution has proved its case beyond any reasonable doubt, and accordingly convicted and sentenced the appellant as mentioned in para No.1 above.

6. Aggrieved appellants are before this Court.

7. Learned counsel for the appellant, at the outset, gives up the challenge to his conviction and prays for reducing the sentence awarded to the appellant, it being 3 months and 14 days, on the ground that he is not involved in any other case under this Act; belongs to poor strata of society; sole bread winner of the family; recovery was non-commercial; never misused the concession of bail and have been facing the agony of protracted trial for the last 21 years.

8. On the other hand, learned State counsel submits that the trial Court after appreciating the evidence led by the prosecution, has rightly convicted and sentenced the appellant, therefore, prays for the dismissal of the present appeal. He, however, affirms the non-involvement of the appellant in

any other criminal case and the period undergone by him as per the custody certificate.

9. Heard the learned counsel on either side and perused the record with their able assistance.

10. Evidently, PW-2 Inspector Nirlap Singh had deposed that the accused-appellant was apprehended and found to be in conscious possession of the alleged contraband, which fact was corroborated by PW1-Contable Sucha Singh. As per Ex.PH, proved by the Forensic Science Laboratory, contents of contraband were opined to be 'narcotic/psychotropic substance'. Link evidence is complete. Thus, there is no scope for interference in the findings recorded therewith and the conclusion arrived at by the trial Court. As such, his conviction is upheld.

11. Insofar as the prayer for reducing the sentence to the period already undergone is concerned, it would be worthwhile to make a reference to the judgment in **S.K. Sakkar @ Mannan vs. State of West Bengal**, (2021) 4 SCC 483, wherein the accused was convicted under Section 20 of the Act and Hon'ble the Supreme Court reduced the sentence of five years to 2 years, 4 months and 16 days, by considering that the occurrence took place in 1997 and he was not a habitual offender, rather a first-time convict.

12. Furthermore, in **Naresh Kumar vs. State of Haryana** in CRA-S-796-SB-2005, decided on 24.02.2023, the sentence of the appellant i.e. 3 years and 6 months, convicted under Section 15 of the Act, was modified to the period undergone i.e. 8 months and 25 days already, by holding that no useful purpose will be served by sending him to jail after 22 years from the date of incident, in view of the fact that he was only about 28 years old at that time.

13. This Court, considering the judgments referred to above and the

mitigating circumstances as pointed out by learned counsel for the appellant, finds that the ends of justice would be adequately served if the sentence of appellant is reduced to the period already undergone by him, while keeping the fine intact.

14. The order of sentence dated 29.11.2004 is modified to the aforesaid extent and as such, the present appeal stands partly allowed.

(AMAN CHAUDHARY)
JUDGE

24.01.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No