

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

119

CRA-S-1426-SB-2005
Date of decision: 02.02.2024

Labh Singh

...Appellant

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. P.S. Rana, Advocate for the appellant.

Mr. Jagdish Manchanda, Addl. A.G., Haryana.

AMAN CHAUDHARY, J.

1. Challenge in the present appeal is to the judgment/order dated 30.07.2005/01.08.2005, passed by the learned Judge Special Court, Kurukshetra, whereby the appellant was convicted and sentenced to undergo rigorous imprisonment for two years alongwith fine of Rs.20,000/- and in default of payment of the same, to further undergo rigorous imprisonment for six months, for the offence punishable under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act').
2. Briefly put, are that on 22.06.2003, when ASI Ram Pal alongwith other police officials were on patrolling duty in connection with the checking of miscreants and suspected vehicles, on suspicion they apprehended the accused with a gunny bag. After apprising him about his rights, search was conducted in the presence of a Gazetted Officer and recovery of 32 Kgs of poppy husk was effected. The requisite samples were drawn and sealed. Ruqa was sent on the basis of which, an FIR came to be registered against the accused-appellant.

3. After completion of investigation, final report under Section 173 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 9 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. No evidence was led in defence.

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 appellant is 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 to the period already undergone it being 03 months and 26 days, on the ground that he is not involved in any other case under this Act; belongs to the poor strata of society; having old parents; recovery was non-commercial; never misused the concession of bail and has been facing the agony of protracted trial for the last 21 years.

8. Learned State counsel opposes the appeal on the ground that the trial Court after evaluating the evidence has rightly convicted the appellant and the sentence awarded to her cannot be said to be excessive, therefore, he prays for the dismissal of the present appeal. He, however, affirms the fact of the non-involvement of the appellant in any other case under this Act as per the custody certificate dated 01.02.2024 issued by the Deputy Superintendent, District Prison,

Kurukshetra.

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

10. Evidently, PW-8 ASI Ram Pal had deposed that the accused-appellant was apprehended and found to be in conscious possession of the alleged contraband, which fact was corroborated by PW-7 DSP Charanjit Singh. As per Ex.PX, proved by the Chemical Examiner, contents of contraband were opined to be 'poppy straw'. 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. Humanistically viewing, the appellant having suffered the ignominy of trial since long; successfully warded off his crime-proneness-an evident

learning of a lesson; his socio-economic circumstances, this Court finds
extenuation to be implicit. Thus, it would serve the ends of justice to reduce his
sentence to the period already undergone, however, keeping the fine intact.

14. The order of sentence dated 30.07.2005/01.08.2005 is modified to
the aforesaid extent and as such, the present petition stands partly allowed.

(AMAN CHAUDHARY)
JUDGE

02.02.2024
hemant

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