

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

122

CRA-S-1482-SB-2005 (O&M)
Date of decision: 02.02.2024

Karnail Singh and another

...Appellants

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Digvijay Singh, Advocate for the appellants.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J.

1. Challenge in the present appeal is to the judgment/order dated 25.08.2005, passed by the learned Judge, Special Court, Rupnagar, whereby the appellants were convicted and sentenced to undergo rigorous imprisonment for two years alongwith fine of Rs.500/- each and in default of payment of the same, to further undergo rigorous imprisonment for one month, for the offence punishable under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act').

2. Succinct facts at first. On 17.04.2002, when Inspector Tejinder Singh alongwith other police officials were on patrolling duty in connection with the checking of miscreants and suspected vehicles, they apprehended the accused in possession of opium wrapped in a glazed paper. After apprising them of their rights, search was conducted in the presence of a Gazetted Officer and recovery of 250 g. of opium 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 Cr.P.C. was presented in the Court against the accused. On finding a prima facie case, charges were framed against them, to which they pleaded not guilty and claimed trial.

4. The prosecution, in order to prove its case, examined as many as 6 witnesses. Thereafter, the statement of the accused was recorded under Section 313 Cr.P.C., whereby incriminating evidence was put to them, which they denied. They 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 appellants as mentioned in para No.1 above.

6. Aggrieved appellants are before this Court.

7. Learned counsel for the appellants, at the outset, gives up the challenge to his conviction and prays for reducing the sentence to the period already undergone, it being more than one month as recorded in the order dated 01.09.2005, on the ground that they are not involved in any other case under this Act; belong to the poor strata of society; sole bread winner of the family; recovery is non-commercial; never misused the concession of bail and have been facing the agony of protracted trial for the last 22 years.

8. Learned State counsel opposes the appeal on the ground that the trial Court after evaluating the evidence has rightly convicted the appellants and the sentence awarded to them cannot be said to be excessive, therefore, he prays for the dismissal of the present appeal. He, however, unables to controvert the fact of the non-involvement of the appellants in any other case under this Act.

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

10. Evidently, PW-4 Inspector Tejinder Singh had deposed that the accused-appellant were apprehended and found to be in conscious possession of the alleged contraband, which fact was corroborated by PW5-ASI Mohinder Pal Singh. As per Ex.PN, proved by the Chemical Examiner, contents of contraband were opined to be 'opium'. 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, their 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 appellants having suffered the ignominy of trial for a long time; their socio-economic circumstances and evidently learnt a lesson by successfully warding off their crime-proneness in life, extenuation is

found to be implicit. Thus, it would serve the ends of justice to reduce their sentence to the period already undergone, however, keeping the fine intact.

14. The order of sentence dated 25.08.2005 is modified to the aforesaid extent and as such, the present appeal stands partly allowed.

(AMAN CHAUDHARY)
JUDGE

02.02.2024
ashok

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