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

234/2

**CRA-S-2384-SB of 2015
Date of Decision: 11.11.2024**

Rajinder Singh @ Bittu

... Appellant

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vishal Munjal, Advocate,
for the appellant.

Mr. Satjot Singh, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The instant appeal has been filed against the judgment of conviction dated 12.03.2015 and order on quantum of sentence dated 13.03.2015 as passed by the Special Court, Pathankot in NDPS case bearing No.350 of 2014 arising out of FIR No.14 dated 22.03.2014 registered under Sections 15 of Narcotic Drugs and Psychotropic Substances Act, 1985 (For short "NDPS Act") at Police Station Taragarh, Pathankot, whereby the appellant had been held guilty for commission of offence punishable under Section 15 (b) of the NDPS Act and was sentenced to undergo rigorous imprisonment for a period of four years

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and to pay fine of Rs.10,000/-. In default of payment of fine, he was further sentenced to undergo rigorous imprisonment for a period of two months. Fine had not been paid.

2. For the sake of continuity and coherence, the parties shall be nominated as per their original nomenclature as given during the course of trial.

3. Adumbrated facts as emanating from the record are that on 22.03.2014, a police party headed by Inspector Ravinder Singh was present in the area of Village Kiri Khurd and formed a nakabandi when a secret information was received to the effect that the accused Rajinder Singh @ Bittu who used to deal in selling poppy husk was bringing contraband in a truck bearing registration No.PB-06-G-2807 and could be apprehended with the same if the nakabandi was formed. Believing the secret information to be true, Inspector Ravinder Singh rushed towards the informed place and laid nakabandi. At about 1:15 PM, accused reached at the spot with the aforementioned truck. On being signalled to stop the vehicle, he stopped the same but tried to run away. He was apprehended. Requisite notice was given to him. He was given right to get this search conducted in the presence of some Gazetted Officer. On his directions, DSP Prabhjot Singh was called at the spot. On conducting search of the truck, 35 kgs of poppy husk was recovered from a bag kept in the tool box of the truck. Samples were drawn. The sample as well as remainder were sealed and taken into custody. Accused was formally arrested. After completion of necessary investigation and usual formalities, challan was presented before the Court.

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4. Copies of challan were supplied to the accused free of cost. On finding a prima facie case for commission of offence punishable under Section 15 (b) of the NDPS Act, the accused had been charge-sheeted accordingly. He pleaded not guilty to the charge and claimed trial.

5. To substantiate its case, the prosecution examined five witnesses besides placing reliance upon certain documents and thereafter the prosecution evidence was closed.

6. Statement of accused under Section 313 of Cr.P.C. was recorded wherein the accused abjured his guilt and pleaded innocence. In defence evidence, he examined one evidence.

7. On appraising the evidence produced on record and hearing the contentions raised by both the sides, the learned Special Court held the accused-appellant guilty and convicted him in the manner as indicated above. Feeling aggrieved, the present appeal is filed.

8. Today, learned counsel for the accused-appellant has made a statement so as to not to press the present appeal against the judgment of conviction passed by the Special Court. Learned counsel confines his prayer against the order of sentence only. It is submitted that the accused-appellant has been facing the agony of litigation from the last more than nine and half years, therefore, the appellant may be sentenced for the period already undergone by him.

9. Learned State Counsel has no serious objection to the aforesaid prayer. He has filed custody certificate, as per which, the appellant has already undergone actual sentence of 01 year, 04 months and 18 days out of

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total sentence of 04 years as awarded by the Special Court.

10. After hearing the counsel for the parties, I uphold the judgment of conviction passed by the Special Court as the same is based on appreciation of prosecution evidence, proving guilt of the accused-appellant. However, considering the fact that the accused-appellant has faced the agony of protracted trial and he has already undergone actual sentence of 01 year, 04 months and 18 days, the nature of the offence committed by him coupled with the fact that he has joined the mainstream of the society, the order on quantum of sentence dated 13.03.2015 is modified to the extent that the same is reduced to the period already undergone by him. However, the order of imposition of fine by learned Special Court is affirmed.

11. The accused-appellant is directed to deposit the fine imposed by the learned Special Court within a period of one month failing which, this appeal shall be deemed to be dismissed.

12. A copy of this order be sent to the concerned Court.

11.11.2024
manju

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No