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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-616-2024 (O&M)

Date of decision: 11.03.2024

SURJEET AND ANOTHER

....Appellants.

Versus

STATE OF HARYANA

....Respondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Ajay Arora Bharti, Advocate,
for Ms. Divya Narula, Advocate,
for the applicants-appellants.

Mr. Surender Singh, AAG, Haryana.

SANJIV BERRY, J. (ORAL)

CRM-6975-2024

1. Keeping in view the averments made in the application,
exemption from filing the certified judgment/order dated 12.01.2024 is
allowed.

2. Disposed of.

Main appeal

1. Instant appeal has been preferred against the judgment of
conviction and order of sentence dated 12.01.2024, passed by learned
Additional Sessions Judge-Cum-Judge Special Court (under NDPS

Act, 1985), Kaithal, whereby the appellants had been held guilty in case FIR No.124 dated 07.10.2016, under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, (for short, ‘the NDPS Act’) registered at Police Station Siwan Kaithal, Appellants were sentenced as under: -

Name of convict	Offence	Period of sentence and fine imposed	Period of sentence in default of payment of fine.
Surjeet	15(b) of the NDPS Act	RI for 06 months with a fine of Rs. 10,000/- each	SI for 01 month each
Guman Ram			

2. Feeling aggrieved by the aforesaid conviction and sentence, instant appeal was filed on 05.02.2024. However, learned counsel for the appellants has limited his prayer to modify the order of sentence dated 12.01.2024 (*supra*), so as to sentence the appellants for the period already undergone by them.

3. Learned State Counsel has produced the custody certificate dated 27.02.2024 to contend that the appellants have already undergone more than 03 months out of the total sentence of six months awarded to them. He does not oppose the prayer made by learned counsel for the appellants.

4. Although the learned counsel for the appellants have not challenged the genuineness of the impugned judgment of conviction dated 12.01.2024 but yet from the perusal of the impugned judgment, it transpires that it is based on correct appreciation of evidence on record and is not suffered from any infirmity so as to call for any interference.

As a consequent the conviction recorded vide judgment dated 12.01.2024 by learned Additional Sessions Judge-Cum-Judge Special Court Kaithal against the appellants is hereby upheld.

5. Coming to the limited request raised by the learned counsel for the appellants in this case seeking modification of order of sentence dated 12.01.2024 and keeping in view the fact that the appellants have no criminal antecedents, it is observed that the State counsel has also not disputed the fact that the appellants are not having any criminal track and are first offenders. As per the custody certificate, the appellants have already undergone more than 3 months of their actual custody, therefore, in these circumstances considering the fact that the appellants are not previous offenders and have already undergone more than 3 months of actual custody out of 6 months vide the impugned order of sentence dated 12.01.2024.

6. Resultantly, in these circumstances of the case, the impugned order of sentence dated 12.01.2024 is modified to the period already undergone by the petitioner in custody, therefore, the present appeal is disposed of with the modification in the impugned order of sentence dated 12.01.2024 passed by learned Additional Sessions Judge-cum-Judge, Special Court, Kaithal, thereby reducing the sentence of the petitioner already undergone by them subject to payment of ₹10,000/- as fine imposed vide impugned order dated 12.01.2024 in default of the payment of fine they have to further

undergo simple imprisonment for one month each.

7. Pending application(s), if any, shall stands disposed of.

11.03.2024
Gyan

(SANJIV BERRY)
JUDGE

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|-----|----------------------------|--------|
| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |