

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM No. 7581 of 2024 in/and
CRA-S No. 663 of 2024 (O&M)
Date of Decision: 22.04.2024

Gurmeet Singh

..... Appellant

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Manjinder Singh Saini, Advocate
for the applicant-appellant.

Mr. Rahul Jindal, Assistant Advocate General, Punjab

HARKESH MANUJA, J. (ORAL)

CRM-7581-2024

Prayer in the present application moved on behalf of the applicant-appellant is for suspension of remaining sentence during pendency of the appeal.

At the outset, learned counsel for the applicant-appellant does not press the present application, however, prays for hearing the appeal.

Learned State Counsel has no objection against the aforesaid limited prayer made on behalf of the applicant-appellant.

In view of the above, present **application is dismissed as not pressed** and with the consent of learned counsel for the parties, the main appeal is taken up today itself.

MAIN APPEAL

The appellant, by way of present appeal, seeks setting aside of the judgment of conviction and order of sentence dated 30.01.2024 passed

by the learned Judge Special Court, Rupnagar, whereby he was convicted for an offence under Section 22(B) of the Narcotics Drugs and Psychotropic Substances Act, 1985 (for short “NDPS Act”), for keeping in his conscious possession 03 kgs. *Gaanja* without any permit or license on 17.06.2020 and sentenced to undergo rigorous imprisonment for a period of one year and also to pay fine of Rs. 5,000/- alongwith default mechanism.

[2] At the outset, learned counsel for the appellant stated at the Bar that he does press this appeal against the judgment of conviction, however, submits that the appellant has two minor children and his father is a labourer, besides this, he is a first time offender, thus, his sentence may be reduced to the period already undergone by him as he has already undergone the actual sentence of more than 03 months. Learned counsel also submits that the appellant is ready to deposit the fine amount of Rs. 5,000/- imposed upon him.

[3] Learned State Counsel vehemently opposes the aforesaid prayer made on behalf of the appellant, stating that the appellant was found in conscious possession of 3 kgs. *Gaanja* and therefore, no leniency be shown to him. However, he produced the custody certificate which indicates that as on 20.04.2024, the appellant has undergone an actual sentence of 03 months and 04 days out of total one year. It has also been mentioned that no other criminal case is pending against him.

[4] I have heard learned counsel for the parties and gone through the paper-book.

[5] A perusal of the impugned judgment would reveal that the appellant has been convicted for keeping in possession of 03 kgs. *Gaanja*

containing narcotic drugs and psychotropic substance Tetrahydrocannabinol and other Cannabinoids, which, concededly, falls in the **non-commercial category**.

[6] Having noticed the aforesaid facts and in view of the statement made by learned counsel for the appellant, present appeal against the judgment of conviction dated 30.01.2024 is hereby confirmed.

[7] As far as the impugned order of sentence is concerned, having regard to the fact that the recovered quantity of the contraband falls within the ambit of **non-commercial category** and the appellant has already undergone the actual sentence of 03 months and 04 days; he has already faced agony of protracted trial of almost four years; he is a young man of around 26 years of age and as per custody certificate, is not a previous convict; he is the sole bread earner of the family and not indulged himself in any offence while on bail; thus, keeping in view the reformatory theory of punishment, order of the sentence is modified and his sentence is reduced to the period already undergone by him, subject to the condition that he shall deposit the fine amount of Rs. 5,000/- as imposed by the trial Court concerned.

[8] **Disposed off** accordingly.

April 22, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No