

S. No.250

2024:PHHC:040430

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

CRA-S-758 of 2024 (O&M)

Date of Decision:20.03.2024

Vijay Kumar

.....Appellant

Vs.

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Karan Singh, Advocate for the appellant.

Mr. Randhir Singh, Addl. AG, Haryana.

DEEPAK GUPTA, J.

In NDPS Act Case No.09 of 2020 arising out of FIR No.351 dated 29.12.2019 registered at Police Station Kalayat, District Kaithal, accused Vijay Kumar (now appellant) has been convicted by the Court of learned Special Judge (NDPS Act), Kaithal under Section 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') vide judgment dated 08.02.2024. Vide separate order dated 15.02.2024, he was sentenced to undergo Rigorous Imprisonment for a period of one year and also to pay fine of ₹25,000/- with default sentence of three months simple imprisonment.

Against the afore-said judgment of conviction and order of sentence, the present appeal has been filed.

Today, learned counsel for the appellant has placed on record copy of the receipt dated 29.02.2024 issued by Superintendent, District Jail, Kaithal so as to submit that fine of ₹25,000/- has already been paid by the appellant.

Learned counsel for the appellant has further made a statement so as to withdraw the present appeal against the judgment of conviction. Learned counsel confines his prayer against the order of sentence only. Learned counsel contends that recovery of 1 Kg 750 Grams only of Ganja Phool Patti was effected from the petitioner, which is just above the small quantity of 1 Kg. It is further

submitted that the appellant is not a previous convict nor any other case is pending against him and so looking into these circumstances, the appellant may be sentenced for the period already undergone by him.

Learned State Counsel has no serious objection to the afore-said prayer.

In view of the afore-said submissions, the present appeal against the judgment of conviction dated 08.02.2024 is hereby dismissed as withdrawn.

As far as the order of sentence dated 15.02.2024 is concerned, it is noticed that appellant has been convicted for possessing 1 Kg 760 grams of Ganja Phool Patti. The small quantity is upto 1 Kg whereas commercial category starts from 20 Kg. It is thus clear that recovered contraband from the appellant was just above the small quantity.

The custody certificate as placed on record by learned State Counsel would reveal that the appellant has already undergone custody period of three months. He has no other criminal case pending against him. He has already paid the fine of ₹25,000/-.

Looking into all the afore-said facts and circumstances, the impugned order of sentence is hereby modified. The appellant is sentenced to imprisonment for the period already undergone by him with fine of ₹25,000/-. As noted above, fine of ₹25,000/- has already been paid.

Disposed of.

March 20, 2024
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(DEEPAK GUPTA)
JUDGE

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