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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-879-2024 (O&M)
Date of decision: 13.05.2024

ARSHDEEP SINGH

....Appellant.

Versus

STATE OF HARYANA

....Respondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Sandeep Saini, Advocate for the applicant-appellant.
Mr. Ramender Singh Chauhan, AAG, Haryana.

SANJIV BERRY, J. (ORAL)

CRM No. 9798-2024

1. Application for suspension of sentence not pressed at this stage as the learned counsel for the applicant-appellant is ready to argue appeal on merits.

2. Accordingly application stands disposed of as not pressed.

Main case

1. Instant appeal has been preferred against the judgment of conviction dated 02.02.2024 and order of sentence dated 05.02.2024, passed by learned Additional Sessions Judge, Yamuna Nagar, Jagadhri, Haryana, whereby the appellant had been held guilty in case FIR No.232 dated 31.03.2021, under Sections 21(b)/29 NDPS Act registered at Police Station



City Yamuna Nagar, Haryana. The appellant was convicted and sentenced as under: -

Name of convict	Offence	Period of sentence and fine imposed	Period of sentence in default of payment of fine.
Arshdeep Singh	21(b) of NDPS Act	RI for 09 months with a fine of ₹ 5000/-	RI for 2 months.

2. Feeling aggrieved by the aforesaid conviction and order of sentence, appellant has preferred the present appeal.

3. It has been *inter alia* contended by learned counsel for the petitioner at the very outset that the petitioner does not challenge the finding recorded by the learned trial Court in the judgment of conviction dated 02.02.2024 and order of sentence dated 05.02.2024 but his only limited prayer is for seeking modification of the order of sentence dated 05.02.2024 passed by the learned trial Court (supra) by submitting that the petitioner has already undergone more than 05. months and 05 days in custody and petitioner is ready to deposit the fine, as such, he prayed that the period already undergone by the petitioner in custody may be treated as sentence undergone and the impugned order of sentence may be modified accordingly.

4. Learned State Counsel has produced the custody certificate dated 09.05.2024 to contend that the appellant has already undergone more than 05 months and 05 days out of the total sentence of 09 months awarded to him.

5. After hearing the arguments advanced by learned counsel for the parties, it transpires that although the learned counsel for the appellant



has not challenged the genuineness of the impugned judgment of conviction dated 02.02.2024 and order of sentence dated 05.02.2024, passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhari, 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 02.02.2024 and order of sentence dated 05.02.2024, passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhari against the appellant are hereby upheld.

6. Coming to the limited request raised by the learned counsel for the appellant in this case seeking modification of order of sentence dated 05.02.2024, admittedly as per the custody certificate, the appellant has already undergone more than 05 months and 05 days of actual custody, therefore, in these circumstances considering the fact that the appellant has already undergone 05 months and 05 days of actual custody out of 09 months awarded vide the impugned order of sentence dated 05.02.2024, it is deemed a fit case where order of sentence can be modified, as no minimum sentence is prescribed for the said offence for which appellant has been convicted.

7. Resultantly, in the circumstances of the case, the impugned order of sentence dated 05.02.2024 is modified to the extent that the period of sentence is reduced from 09 months to 06 months. Therefore, the present appeal is disposed of with the modification in the impugned order of sentence dated 05.02.2024 passed by learned Additional Sessions Judge, Yamuna Nagar, Jagadhri, thereby reducing the sentence of the appellant to



06 months period subject to payment of ₹5,000/- as fine imposed vide impugned order dated 05.02.2024 in default of the payment of fine he has to further undergo rigorous imprisonment for 02 months.

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

13.05.2024

(SANJIV BERRY)
JUDGE

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