

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-1789-2024 (O&M)

Decided on 06.05.2024

Rohit Masih

... Appellant

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Ms. Rashika Bansal, Advocate for
Mr. Dheeraj Mahajan, Advocate for the appellant

Mr. Jaspal Singh Guru, AAG Punjab

Sandeep Moudgil, J.

CRM-19617-2024

For the reasons mentioned in the application, the same is allowed
and the delay of 5 days in filing the appeal is hereby condoned.

CRM stands disposed of.

Main case

(1). This appeal under Section 372 CrPC has been preferred by the
appellant-Rohit Masih assailing the judgment and order dated 27.02.2024
passed by Special Court, Gurdaspur whereby the appellant has been convicted
under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substance
Act, 1985 (in short, the NDPS Act) and sentenced to undergo RI for one year
and to pay fine of Rs.5000 in case FIR No.118 dated 20.10.2020 under Sections
22(b) and 29 of NDPS Act, registered at Police Station Fatehgarh Churrian,
District Gurdaspur.

(2). According to the case of the prosecution, the appellant was
apprehended on 20.10.2020 and upon the search, he was found in possession of

150 intoxicant capsules containing salt “Tramadol Hydrochloride” without any license or permit.

(3). The appeal is accompanied with the application for suspension of sentence during its pendency.

(4). Notice of motion.

(5). On the asking of the Court, Mr. Jaspal Singh Guru, AAG Punjab accepts notice.

(6). Learned counsel for the appellant has not challenged the judgment and order of conviction passed by the trial Court. However, he has submitted that the appellant is a first time offender and is the sole bread winner of his family. He has been facing the agony of criminal prosecution since FIR was lodged in October, 2020. The contraband recovered from him does not fall within the definition of commercial quantity. Moreover, out of the sentence of one year imposed upon him, he has already undergone a period of more than 2 months and 27 days. Therefore, the remaining substantive sentence of imprisonment of the appellant be set aside.

(7). Learned State counsel has vehemently opposed the prayer made by learned counsel for the appellant stating that the appellant was found in possession of contraband and, therefore, no leniency be shown to him in the matter of sentence. However, he has produced the custody certificate which indicates that as on 06.05.2024, the appellant had undergone an actual sentence of 2 months and 27 days. It has also been mentioned therein that there is no other criminal case pending against him.

(8). Heard learned counsel for the parties and gone through the record.

(9). As per the State of Punjab Household Survey (SPHS) and state-wide NCD STEPs Survey by the PGIMER, the projected number of overall substance use in Punjab is 15.4%, with more prevalence among the men. Over 2 million people consume alcohol, followed by tobacco, which is consumed by more than 1.5 million people. Also, around 1.7 lakh people consume opioids, followed by cannabinoids as well as sedative-inhalant- stimulants. These are largely a class of pharmacological or prescription drugs being used illicitly.

(10). The negative consequences of drug abuse affect not only individuals who abuse drugs but also their families and friends, various businesses, and government resources. The most obvious effects of drug abuse--which are manifested in the individuals who abuse drugs--include ill health, sickness and, ultimately, death. Particularly devastating to an abuser's health is the contraction of needle borne illnesses including hepatitis and HIV/AIDS through injection drug use.

(11). In simple terms socio-economic impact of drug abuse means undesirable or negative changes in the social fabric due to drug abuse; it also includes negative economic impact on individual, society and Government. It has many aspects. Use of drug by common people leads to many social consequences such as – Instability in family relationship, Domestic Violence, Crime prone life, Reduction of sense of belongingness to the family and the society. There is also lack of social harmony and happiness within the family. On the other hand, family plays an important role in the life of an individual. Family members have a strong bond with each other, they support each other, face crisis together and affect the behavior and attitude of each other. Once any member becomes a drug addict the entire family is negatively affected. The

family can play a major role in preventing drug addiction within the family. Further even if unfortunately a member becomes a drug addict, de-addiction is impossible without the support of the family. Doctors alone cannot cure a drug addict without the support of the family. Use of drugs by any family member particularly the parents and the elders negatively affect the young ones. Weak family link also reduces its influence for preventing drug abuse. It has been found that use of drugs by elders leads to use by youngsters. Use of drugs by a family member creates a vicious circle of drug users and its leads to a drug prone society.

(12). However, taking into consideration the totality of the circumstances, the Court is of the view that ends of justice would be best met if the substantive sentence of imprisonment of the appellant is reduced to that already undergone by him.

(13). Resultantly, the conviction of the appellant as awarded by the trial Court is maintained. His substantive sentence of imprisonment is reduced to that already undergone by him.

(14). Disposed of accordingly.

06.05.2024
V.Vishal

- 1. *Whether speaking/reasoned?*
- 2. *Whether reportable?*

(Sandeep Moudgil)
Judge

- Yes/No*
- Yes/No*