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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.A. 1125/2024 & CRL.M.A. 36020/2024**

ARMANDO LOPEZ REYES

.....Appellant

Through: Ms. Sunita Arora, Adv. (DHCLSC)

versus

THE STATE GOVT. OF NCT OF DELHI & ORS.Respondent

Through: Ms. Priyanka Dalal, APP
SI Sanjay Kumar, PS Crime Branch,
Chanakya Puri, Delhi
SI Simarjeet Kaur, PS Crime Branch
Mr. Ishkaran Singh Bhandari, CGSC
with Mr. Rajat Mohan Dwivedi, Adv.
for R2

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **19.12.2024**

1. This is an appeal filed under section 415 (2) of the BNSS against the judgment dated 20.05.2022 and order of sentence dated 07.06.2022 passed by the learned Special Judge (NDPS), Dwarka Courts, New Delhi.
2. In the present case, the appellant was convicted for offences under Section 21(c) of the NDPS Act, 1985 and was sentenced to undergo rigorous imprisonment for a period of 10 years along with a fine of Rs. 1 lakh and in case of default, 3 months simple imprisonment. During the course of trial, the appellant has already pleaded guilty to the offences he was framed for, which was also recorded by the learned Sessions Court. Hence the appellant was convicted.
3. At this stage, the only prayer sought by the appellant is modification



the final order of sentence dated, 07.06.2022 to the extent of setting aside the amount of fine or reducing the sentence in default of payment, thereof.

4. As per the Nominal Roll dated 03.09.2024, the appellant has already undergone incarceration for a period of 9 years 4 months 18 days, leaving an unexpired portion of 7 months and 12 days.

5. As on today, another period of 3 months has elapsed and the appellant would have undergone incarceration for about 9 years 8 months and the unexpired portion would be about 4 months.

6. Admittedly, this court in appeal cannot reduce the substantive sentence awarded to the appellant as the appellant has been sentenced to the minimum prescribed period of 10 years for the offence under Section 21(c) of the NDPS Act, 1985. However, this Court can reduce the default sentence awarded to the appellant, in case the fine is not paid by him.

7. Ms. Arora, learned counsel for the appellant states that the appellant is an old person of 73 years and is a citizen of Peru. The appellant has no source of income. In addition, the appellant has no relatives or family members in Delhi and belongs to the poor strata of the society.

8. I am of the view that the appellant would not be able to pay the fine of Rs 1,00,000/- as imposed by the learned Sessions Court *vide* order of sentence dated 07.06.2022.

9. For the said reasons, the default sentence awarded to the appellant, in case the fine is not paid by him is reduced from 3 months of simple imprisonment to 1 day of simple imprisonment.

10. The appellant shall be released after the expiry of the entire substantial sentence awarded to him i.e. 10 years and thereafter, in case, he is unable to pay the fine of Rs. 1 lakh, he shall further undergo, 1 day of



simple imprisonment.

11. With these directions, the appeal is disposed of.

JASMEET SINGH, J

DECEMBER 19, 2024/sp

Click here to check corrigendum, if any