



CRA-S-1169-SB-2012

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

CRA-S-1169-SB-2012

Decided on: 07.02.2025

Mandeep Kumar @ Lucky

..... Appellant

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Mandeep Kumar Sachdeva, Advocate, for the appellant.
Mr. J.S.Arora, DAG, Punjab.

Rajesh Bhardwaj, J.

1. Present appeal has been preferred by the appellant against the order passed by learned Special Court, Moga, wherein, appellant was convicted for the offence under Section 18 of the NDPS Act vide order dated 13.03.2012 and sentenced him to undergo rigorous imprisonment for four years alongwith fine of Rs.10,000/- vide order dated 13.03.2012.

2. Brief facts of the case of the prosecution are that on 20.05.2007 the police party while on patrolling was going in Government vehicle Tata Sumo bearing No.PB 12 G 8434 from Dharamkot to Kamal Ke via main road. When the police party reached from link Pandori Arayian, two persons came on motorcycle and tried to approach the main road. However, on seeing the police, they got perplexed and tried to turn the motorcycle towards the village Pandori Arayian. SI Jaspar Johan apprehended both of them. In the meantime, one Anil Kumar came there on scooter, who joined the police after disclosing of the facts. On interrogation, the person driving the motorcycle disclosed his name as Mandeep Kumar @ Lucky (appellant) and the person riding pillion disclosed his name as Hakam Singh, who was



carrying a white coloured plastic *jhola* in his hand. They were suspected carrying some intoxicant, thus, offer was given to them to be searched. On search of the *jhola*, 500 grams of opium was recovered from the same. They failed to produce any licence for the possession of the opium recovered. Thus, the FIR was registered and they were arrested on the spot. On the conclusion of the investigation, challan was presented, charges were framed and the trial commenced. On the conclusion of the trial, learned trial Court found the charges to have been proved by the prosecution beyond reasonable doubts against the appellant and thus, convicted and sentenced him vide order dated 13.03.2012.

3. Learned counsel for the appellant at the outset has submitted that he does not press the conviction in the present case, however, the appellant is a first time offender and out of awarded sentence, he has already undergone, 01 year 06 months and 19 days of imprisonment. It is submitted that the appellant is suffering from chronic disease of kidney and liver. He has drawn the attention of this Court to the medical certificate produced on record in support of his medical condition. He has submitted that the appellant is facing rigorous of criminal proceedings since the last 18 years. He, thus, submits that present appeal be disposed of by reducing the sentence to already undergone by the appellant.

4. Learned State counsel has opposed the submissions made by learned counsel for the appellant and has produced the custody certificate of the appellant.

5. The Court has heard learned counsel for the parties with their able assistance and perused the record. Appellant has assailed the impugned



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order dated 13.03.2012, wherein, he was convicted and sentenced, however, the conviction of the appellant is not challenged by counsel for the appellant. He has restricted his prayer to reduce the sentence of the appellant to already undergone by him. The custody certificate produced by learned State counsel would show that the appellant had suffered actual incarceration of 01 year 06 months and 19 days. It further reflects that the petitioner has no criminal antecedents. Besides this, the medical certificate produced would substantiate the arguments raised by counsel for the appellant that the appellant is a patient of kidney and liver disease. Needless to say that the appellant is facing rigorous of criminal proceedings since the year 2017. In the overall facts and circumstances, there are mitigating circumstances for considering the prayer made by counsel for the appellant and hence, the present appeal is disposed of by reducing the sentence of the appellant to already undergone by him.

07.02.2025

sharmila

Whether Speaking/Reasoned
Whether Reportable**(RAJESH BHARDWAJ)
JUDGE**: Yes/No
: Yes/No