

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-3919-2024 (O&M)

Decided on 03.02.2025

Anil Singh

... Appellant

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. SP Singh, Advocate for the appellant

Mr. JS Rattu, DAG Punjab

Sandeep Moudgil, J.

(1). This appeal under Section 415 Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) has been preferred by the appellant-Anil Singh assailing the judgment and order dated 12.11.2024 passed by Special Court, Rupnagar whereby he has been convicted under Section 21(b) 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.10000 in case FIR No.77 dated 08.06.2022 under Section 21(b) of NDPS Act, registered at Police Station Nangal.

(2). According to the case of the prosecution, the appellant was apprehended with a polythene envelop which was thrown by him in the bushes on seeing the police party, containing 45 grams of heroin without any license or permit.

(3). The appeal is accompanied with the application for suspension of sentence during its pendency and since the appellant was stated to have already completed 25% of the sentence awarded, this Court vide order dated

02.12.2024 admitted the appeal and ordered that the same be listed in motion list.

(4). At the outset, learned counsel for the appellant submits that he does not want to challenge the judgment and order of conviction passed by the trial Court. However, he has submitted that the appellant is the sole bread winner of his family and there is no other cases registered against him. It is submitted that the appellant had been facing the agony of criminal prosecution since FIR was lodged in June, 2022. 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 around 4 months. Therefore, the remaining substantive sentence of imprisonment of the appellant be set aside.

(5). 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 dated 01.02.2025 which indicates that the appellant had undergone an actual sentence of 3 months and 28 days. It has also been mentioned therein that there is no other criminal case pending today against him except that in one case, production warrant has been issued in his name.

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

(7). Taking into consideration the totality of the circumstances and the fact that learned counsel for the appellant fairly limits his prayer qua sentence only and out of the total sentence period of 1 year, the appellant has undergone around 4 months of sentence, this 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 while keeping intact the judgment passed by the trial court.

(8). 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.

(9). Disposed of accordingly.

03.02.2025

V.Vishal

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

(Sandeep Moudgil)
Judge

Yes/No
Yes/No