



113

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

CRA-S-4090-2024 (O&M)

Date of decision: 22.01.2025

Sukhwinder Singh @ Jony

.....Appellant

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Vishal Goel, Advocate
for the appellant.

RAJESH BHARDWAJ, J.CRM-49494-2024

Prayer in the present application is for condoning the delay of
1006 days in filing the present appeal.

Notice in the application.

Mr. Tarun Aggarwal, Senior DAG, Punjab who is present in
the Court has accepted notice on behalf of the respondent-State and pleads
no objection if delay of 1006 days in filing the present appeal is condoned.

In view of this, the present application is allowed and delay of
1006 days in filing the appeal is condoned.

Main case

1. Prayer in the present appeal is for setting aside the judgment
and quantum of sentence dated 22.01.2020 passed by the learned Judge,
Special Court, Patiala by which the appellant was sentenced to undergo
rigorous imprisonment under Section 15(b) of the NDPS Act, 1985 for one
month along with fine of Rs.1,000/- and in default of payment of fine, he
was directed to undergo further rigorous imprisonment for five days. The

Canter No.PB11-AQ-9727 used as a conveyance for transporting the



contraband was ordered to be confiscated under Section 60(3) of the NDPS Act.

2. Succinctly facts of the case are that appellant was prosecuted in FIR No.207 dated 11.12.2018, under Section 15 of the NDPS Act at Police Station Sadar Samana. The FIR in the present case was registered against the appellant on the basis of secret information received by the police. On registration of the FIR, *naqa* was laid and 02 kg of poppy husk was recovered from the Canter being driven by the appellant. On conclusion of the investigation, challan was presented, charges were framed and the trial commenced. Both the sides led their evidence and learned trial Court finally came to the conclusion that prosecution had succeeded in proving its case and thus, held the appellant guilty under Section 15(b) of the NDPS Act for the conscious possession of 02 kg of poppy husk being transported in the Canter bearing registration No.PB11-AQ-9727. Hence, he was sentenced by awarding rigorous imprisonment for 01 month along with fine of Rs.1,000/- vide order dated 22.01.2020. Besides awarding the sentence to the applicant/appellant, learned trial Court also directed for initiating separate proceedings under Section 60(3) of the NDPS Act for confiscation of the Canter used in the offence. Aggrieved by the same, the appellant has approached this Court by way of filing the present appeal.

3. Learned counsel for the appellant, at the outset, submits that he does not press the conviction of the appellant on merits as he has already undergone the sentence awarded to him. He rather submits that the appellant is aggrieved by the confiscation proceedings of the Canter directed to be initiated against him by the trial Court under Section 60(3) of the NDPS Act. He submits that the appellant is a poor person and his only



source of livelihood is the vehicle which has been ordered to be confiscated. He has submitted that the trial Court has proceeded with the confiscation proceedings and the notice has been issued to him for confiscation of the same. It is submitted that the recovery effected in the case is only 02 kg of poppy husk whereas, the small quantity of poppy husk is upto 01 kg. He submits that the appellant has no criminal antecedents and thus, the appeal be disposed of with the sentence already undergone and the confiscation proceedings directed to be initiated being unsustainable in the eyes of law be *set aside*.

4. Learned State counsel has submitted that the prosecution has succeeded in proving its case and hence, the appellant was convicted and awarded sentence of rigorous imprisonment for 01 month along with fine of Rs.1,000/-. He submits that the confiscation proceedings against the appellant have been rightly directed to be initiated by the trial Court as the said vehicle was used in the crime.

5. I have heard counsel for the parties and perused the record. As submitted by learned counsel for the appellant at the outset that he does not press the conviction and sentence awarded to the appellant as he has already undergone the sentence awarded to him, so there is no requirement for this Court to go into the merits of the case with regard to conviction and sentence awarded to the appellant. However, he is aggrieved with the confiscation proceedings of the vehicle as directed to be initiated by the trial Court. Needless to say, the contraband recovered in the present case is only 2 kg of poppy husk. There is nothing on record to show that the appellant has any criminal antecedents. It is submitted before this Court that the vehicle is the only source of livelihood of the appellant. As contended the proceedings of confiscation have been initiated against the



appellant and notice has also been issued to him pursuant to the same.

6. Keeping in view the quantity of the contraband recovered from the appellant and also the fact that the said Canter is the only source of income of the appellant, this Court finds that the confiscation proceedings as directed to be initiated against the appellant by the trial Court while convicting him, deserves to be quashed, by depriving of the appellant from the only source of his livelihood may result in pushing him into the trade of drugs and also would result in denying him the chance of his improvement in future. Hence, the confiscation proceedings as directed to be initiated along with subsequent proceedings in pursuant to the same are hereby quashed.

7. The appeal stands disposed of accordingly.

22.01.2025
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No