

2025:PHHC:053310



S. No. 341

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-234-SB of 2006 (O&M)

Date of Decision:25.04.2025

Melo

.....Appellant

Vs.

The State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. S.S. Gill, Advocate for the appellant.
Mr. Rajiv K. Takkar, DAG, Punjab.

DEEPAK GUPTA, J. (Oral)

Appellant- Melo was tried by Ld. Special Court, Sangrur in a case arising out of FIR No.118 dated 10.10.2002 under Section 15 of the NDPS Act registered at Police Station City Khanauri, as he was found in possession of 6 Kg of poppy husk. After trial, the appellant was convicted under Section 15 of the NDPS Act vide judgment dated 24.01.2006 by the trial Court and was sentenced to undergo rigorous imprisonment for a period of three months and to pay fine of ₹200/- with default sentence of 01 month rigorous imprisonment in case of non-payment of fine.

2. Against the abovesaid conviction and sentence, this appeal was filed.
3. Today learned counsel for the appellant stated at the outset that appellant do not press the appeal against the judgment of conviction; and that appellant confine his prayer only against order of sentence. It is submitted that appellant would be satisfied, in case he is sentenced to imprisonment for the period already undergone by him.
4. Learned counsel points out that offence pertains to the year 2002; that appellant was of 27 years at that time; that appellant had already undergone sentence of more than one month as per the application dated 02.02.2006



moved under Section 389 Cr.P.C. and so, he deserve to be sentenced for the period already undergone by him.

5. Learned State Counsel has not disputed the afore-said custody period undergone by the appellant.

6. Although custody certificate has not been placed on record but perusal of the application dated 02.02.2006 moved under Section 389 Cr.P.C would reveal that appellant had already undergone sentence of more than one month . He was of 27 years of age at the time of offence, which had taken place way back in 2002 i.e. 23 years back.

7. In the aforesaid facts and circumstances, it will be in the interest of justice, if the period of imprisonment is reduced to the period already undergone by the appellant, instead of sending him behind bars in the company of hardened criminals.

8. Consequently, the present appeal is partly accepted. By maintaining the impugned judgment against conviction, the order of sentence as passed by the trial Court is modified and the appellant is sentenced to imprisonment for the period already undergone by him. As far as fine is concerned, it will remain same.

9. However, it is made clear that amount of fine, if not paid earlier, shall be deposited before learned Chief Judicial Magistrate concerned, within a period of four weeks from today, failing which the appellant will have to carry out the complete sentence as imposed by the trial Court.

Disposed of.

April 25, 2025
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No