



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

\*\*\*\*

**210**

**CRA-S-728-SB-2010**

**Date of Decision.:04.03.2025**

**Radhey Sham**

**.....Appellant**

**Vs.**

**State of Punjab**

**.....Respondent**

**CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present:- None for the appellant.

Mr. Neeraj Madaan, Sr. DAG, Punjab.

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**DEEPAK GUPTA, J. (ORAL)**

Appellant Radhey Sham was tried by Ld. Special Court, Ferozepur in a case arising out of FIR No.191 dated 07.09.2008 under Section 18 of the NDPS Act registered at Police Station Sadar Abohar, as he was found in possession of 2 Kg of opium. After trial, the appellant was convicted under Section 18 of the NDPS Act vide judgment dated 09.02.2010 by the trial Court and was sentenced to undergo rigorous imprisonment for a period of five years and to pay fine of ₹30,000/- with default sentence of 01 year rigorous imprisonment in case of non-payment of fine.

2. Against the abovesaid conviction and sentence, this appeal was filed.

3. Today nobody is appearing on behalf of the appellant. This Court has gone through the impugned judgment of the trial Court and finds that conviction has been recorded after proper appreciation of the evidence on record. This Court does not find any reason so as to interfere in the impugned judgment of conviction and as such, the same is hereby maintained.

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4. However as far as the impugned order of sentence is concerned, it is noticed that appellant was sentenced to undergo rigorous imprisonment for a period of five years and to pay fine of ₹30,000/- with default sentence of 01 year rigorous imprisonment in case of non-payment of fine for keeping in possession of 2 Kg of opium.

5. The custody certificate placed on record by the respondent-State would reveal that appellant has already undergone actual custody sentence of 01 year 08 months and 29 days. Although the appellant has not placed on record any affidavit in terms of order dated 22.01.2024 but custody certificate does not indicate that appellant is involved in any criminal activity after the impugned conviction.

6. 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.

7. 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.

Disposed of.

**( DEEPAK GUPTA )  
JUDGE**

**March 04, 2025**

Neetika Tuteja

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|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |