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**(2010) 11 P&H CK 0521**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Criminal Appeal S-575-SB of 2002

Gurmeet Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

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**Date of Decision:** Nov. 16, 2010

**Acts Referred:**

- Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) - Section 15

**Hon'ble Judges:** Tej Pratap Singh Mann, J

**Bench:** Single Bench

**Final Decision:** Dismissed

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### **Judgement**

T.P.S. Mann, J.

This appeal is directed against the judgment of conviction and order of sentence dated 13.3.2002 passed by Judge, Special Court, Ludhiana whereby the Appellant was convicted u/s 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as "the NDPS Act") and sentenced to undergo rigorous imprisonment for 31/2 years and to pay a fine of Rs. 1000/-and in default of payment of fine, to undergo further rigorous imprisonment for six months.

2. According to the prosecution, the Appellant was nabbed on 5.4.1999 when he was found in possession of 15 kgs of poppy husk.

3. Learned Counsel for the Appellant has not challenged the impugned judgment of conviction. However, he has submitted that the Appellant is a first offender. He has been facing the agony of criminal prosecution for the last more than 11 1/2 years. The recovery effected from the Appellant does not fall within the definition of "commercial quantity". He is a married person. He has already remained in jail for a period of about five months. Therefore, the remaining sentence of imprisonment of the Appellant be set aside.

4. Learned State counsel has submitted that the menace of drugs is spreading and the same is required to be curbed with a heavy hand. Therefore, the Appellant does not deserve any leniency in the matter of sentence of imprisonment. However, the State counsel has produced custody certificate as per which, the Appellant has undergone an actual sentence of 4 months and 15 days.

5. Taking into consideration the totality of the circumstances, the Court is of the view that no useful purpose would be served by sending the Appellant behind the bars once again for undergoing his remaining sentence of imprisonment. Ends of justice would be amply met if the substantive sentence of the Appellant is reduced to that already undergone by him. At the same time, the sentence of fine imposed upon him can be suitably enhanced.

6. Resultantly, the conviction of the Appellant u/s 15 of the NDPS Act is maintained. His substantive sentence of imprisonment is reduced to that already undergone by him. However, the fine of Rs. 1000/- imposed upon the Appellant by the trial Court is enhanced to Rs. 15,000/-. The enhanced amount of fine be deposited by the Appellant with the trial Court within three months from today, failing which he shall be required to undergo rigorous imprisonment for one year.

7. The appeal is, accordingly, disposed of.