

\$~29

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.A. 407/2016
GULSHER @ SHERU Appellant
Through: Counsel for the appellant (appearance
not given).
versus

STATE Respondent
Through: Mr. Amit Chadha, APP for State.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK
ORDER
% **09.09.2016**

Crl. M.B. 876/2016

Appellant has been convicted under Section 21(c) of NDPS Act and sentenced to undergo rigorous imprisonment for 10 years with fine of ₹1 lac and in default of payment of fine to undergo simple imprisonment for six months. Appellant is in incarceration for more than five years. A Division Bench of Punjab & Haryana High Court in Daler Singh vs. State of Punjab, 2007(1) C.C. Cases (HC) 252 has laid down the guidelines for suspension of sentence for offence under the NDPS Act. The Division Bench has considered the decisions of the Supreme Court in Maktool Singh vs. State of Punjab 1991(1) C.C. Cases 109(SC), Dadu @ Tulsi Dass. vs. State of Maharashtra 2001(1) C.C. Cases 91(SC) and Man Singh vs. Union of India,

2006(2) RCR (Cr1.) 73(SC) and has held thus :-

“We therefore feel that keeping in view the spirit of Article 21, the following principles should be adopted for the release of the prisoners (convicts) on bail after placing them in different categories as under :-

(1) Where the convict is sentenced for more than 10 years for having in his conscious possession commercial quantity of contraband, he shall be entitled to bail if he has already undergone a total sentence of six years, which must include at least fifteen months after conviction.

(2) Where the convict is sentenced for ten years for having in his conscious possession commercial quantity of the contraband, he shall be entitled to bail if he has already undergone a total sentence of four years, which must include at least fifteen months after conviction.

(3) Where convict is sentenced for ten years for having in his conscious possession, rarely marginally more than non-commercial quantity, as classified in the table, he shall be entitled to bail if he has already undergone a total sentence of three years, which must include at least twelve months after conviction.

(4) The convict who, according to the allegations, is not arrested at the spot and booked subsequently during the investigation of the case but his case is not covered by the offences punishable under Section 25,27-A and 29 of the Act, for which in any case the aforesaid clauses No. (i) to (iii) shall apply as the case may be, he shall be entitled to bail if he has already undergone a total sentence of two years, which must include at least twelve months after conviction.”

In the present case, appellant has been awarded sentence of 10 years for conscious possession of commercial quantity of contraband. Appellant has already undergone sentence of more than five years. Keeping in mind the above facts and circumstances, sentence of appellant shall remain

suspended during the pendency of appeal, subject to his furnishing a personal bond in the sum of ₹25,000/- with one surety in the like amount to the satisfaction of the trial court.

Application is disposed of in the above terms.

Crl. A. 407/2016

Admit.

List in due course along with Crl. A. 405/2016.

Dasti.

A.K. PATHAK, J.

SEPTEMBER 09, 2016

ga