Aslam Vs State of H.P

Cr. Appeal No.91 of 2025

23.01.2026 **Present:** Mr Aditya Chauhan, Advocate, for the appellant.

Mr Lokender Kutlehria, Additional Advocate General, for the respondent/State

Cr. MP No.5775 of 2025

Learned Special Judge, Paonta Sahib, District Sirmaur, H.P (learned Trial Court) convicted the petitioner for the commission of an offence punishable under Section 15 of Narcotic Drugs & Psychotropic Substances Act (NDPS Act) and sentenced him to undergo rigorous imprisonment for four years, pay a fine of ₹ 25,000/- and in default of payment of fine to undergo rigorous imprisonment for three months for the possession of 6.110 kg of Poppy straw.

2. Aggrieved by the judgment and order passed by the learned Trial Court, the accused/applicant has preferred an appeal and also an application for the suspension of the sentence.

3. The State has filed a reply to the application, taking a preliminary objection regarding the lack of maintainability. It was asserted that the police recovered 6.110 kg of Poppy straw, which is an intermediate quantity. The prosecution had proved its case beyond a reasonable doubt. The petitioner has no case in his favour; therefore, it was prayed that the present petition be dismissed.

4. I have heard Mr Aditya Chauhan, learned counsel for the applicant/accused, and Mr Lokender Kutlehria, learned Additional Advocate General for the respondent/State.

5. Mr Aditya Chauhan, learned Counsel for the applicant/accused, submitted that the learned trial Court erred in imposing the sentence of four years rigorous imprisonment. The sentence is harsh, the evidence was not properly appreciated, and the provision of Section 52A of the NDPS Act was not complied with. The applicant has sufficient reasons to claim acquittal; therefore, he prayed that the present application be allowed and the sentence imposed by the learned Trial Court be suspended.

6. Mr Lokender Kutlehria, learned Additional Advocate General for the respondent/State, submitted that the prosecution has succeeded in proving its case beyond a reasonable doubt. The learned Trial Court had rightly appreciated the evidence. The applicant has no case in his favour; therefore, he prayed that the present application be dismissed.

7. I have given considerable thought to the submissions made at the Bar and have gone through the records carefully.

8. The Central Government has notified 1 kg of Poppy straw as a small quantity and more than 50 kg as a commercial quantity. Thus, the petitioner was found in possession of an intermediate quantity of poppy straw. A person possessing 50 kg of poppy straw could be punished

with an imprisonment of 10 years. Thus, a person possessing 6.110 kg of poppy straw, *prima facie,* could not have been sentenced to undergo the rigorous imprisonment of 4 years by applying the principle of proportionality, and the petitioner has a *prima facie*, arguable case in his favour. Therefore, the present application is allowed and the substantive sentence of imprisonment awarded vide judgment and order dated 10-12-2025 in Criminal Appeal Case No.17-N/7 of 2018 by the learned trial court is ordered to be suspended during the pendency of the present appeal, subject to deposit of a fine and furnishing personal and surety bond in the sum of ₹ 50,000/- to the satisfaction of learned trial Court within four weeks undertaking to appear before this Court as and when directed to do so and surrender before the learned Trial Court in case of acceptance of appeal. The bail bonds so furnished shall be transmitted to this Court for record. The present application stands disposed of.

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List in due course.

(Rakesh Kainthla)
Vacation Judge

January 23rd 2026
(Meera)