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**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

**Criminal Appeal No.571/2014**

**LOK PAL SINGH**

**Appellant(s)**

**VERSUS**

**THE STATE OF UTTARAKHAND**

**Respondent(s)**

**ORDER**

The appellant is the sole accused in this appeal. He has been charge-sheeted for the offences punishable under Sections 8/20 of Narcotics Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the NDPS Act) in connection with F.I.R.No.529 of 2007 dated 01.07.2007 registered at Chalani P.S., Kotwali Bageshwar.

The police party, while on a patrolling duty found the movement and conduct of the appellant to be suspicious. Upon a search being conducted, he was found to be in possession of cannabis/charas, which was in sufficient commercial quantity thereby attracting the rigours of Section 37 of the NDPS Act. The Trial Court and the High Court placing substantial reliance on the prosecution witnesses along with the Forensic Science Report found the appellant guilty and accordingly he was sentenced for a period of 10 years. Learned counsel for the

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appellant has made submissions on merits. She submitted that even as per the evidence available, the procedure adopted by the respondent in amalgamating all the pieces of the contraband and thereafter placing them in two big packets, for the purpose of extracting samples would not warrant punishment for carrying the commercial quantity of contraband. In such view of the matter, the present provisions of the Act ought not to be attracted.

Learned counsel appearing for the State submitted that this plea has not been specifically taken. In the aforesaid circumstances, we are not inclined to accept the aforesaid submission as it is the evidence of the police officer himself in his chief examination that the exercise was undertaken. In fact, even the High Court has also taken note of the said exercise.

We are of the view that while undertaking the exercise of extracting samples, the pieces ought to have been preserved in a uniform manner and samples ought to have been taken out from each of them. However, the procedure adopted by the respondent, despite being improper, would not enable the appellant to take advantage of the same as the samples clearly show the presence of contraband. It is one thing to say that the quantity is not commercial, as against no existence of the clear presence of contraband. In such circumstances of the matter, we are inclined to modify the sentence to the period undergone, by treating the

contraband as less than commercial quantity.

Accordingly, the appeal stands allowed by setting aside the conviction for commercial quantity and reducing the sentence to the period undergone. The appellant is convicted for possession of the said quantity and it is noted that the sentence undergone by him is to be treated as sufficient and proportionate to with the facts. We have been informed that he has already undergone more than 8 years and 10 months of incarceration.

The appeal, accordingly, stands allowed in part.

The bail bond executed stands discharged and the fine imposed by the High Court is reduced to Rs. 10,000/-.

Pending application(s), if any, stands disposed of.

.....J.  
[M.M. SUNDRESH]

.....J.  
[ARAVIND KUMAR]

New Delhi;  
26<sup>th</sup> September 2024

ITEM NO.103

COURT NO.12

SECTION II-B

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Criminal Appeal No.571/2014

LOK PAL SINGH

Appellant(s)

VERSUS

THE STATE OF UTTARAKHAND

Respondent(s)

Date : 26-09-2024 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.M. SUNDRESH  
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Appellant(s) Ms. Sumita Hazarika, AOR  
Ms. Mansi Mehta, Adv.

For Respondent(s) Mr. Akshat Kumar, AOR  
Ms. Anubha Dhulia, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The appeal stands allowed in part in terms of the Signed  
Order.

The bail bond executed stands discharged and the fine imposed  
by the High Court is reduced to Rs. 10,000/-.

Pending application(s), if any, stands disposed of.

(CHANDRESH)  
COURT MASTER (SH)

(Signed order is placed on the file)

(POONAM VAID)  
COURT MASTER (NSH)