

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. Appeal No. 401 of 2023.****Date of decision: 03.09.2026**

Tara Chand @ Taru

...Appellant.

Versus

State of H.P.

...Respondent.

Coram**Hon'ble Mr. Justice Vivek Singh Thakur, Judge.****Hon'ble Mr. Justice Bhupesh Sharma, Judge.****Whether approved for reporting?**

For the Appellant.

Mr. Kulwant Singh Gill, Advocate.

For the Respondent:

Mr. J.S. Guleria, Deputy Advocate General.

Vivek Singh Thakur, Judge

This appeal has been preferred on behalf of the appellant-convict against judgment dated 15.12.2017 passed by learned Special Judge-II (Additional Sessions Judge), Kullu, H.P. in Sessions Trial No.53 of 2016, titled, State of Himachal Pradesh Vs. Tara Chand alias Taru in case FIR No.67 of 2016 dated 15.04.2016 Police Station Manali, District Kullu, H.P. under Section 20 of NDPS Act, whereby appellant has been convicted under section 20 of the NDPS Act vide judgment of conviction and order of sentence dated 15.12.2017 to undergo 10 years rigorous imprisonment with a fine of ₹1 lakh and in

default of payment of fine to further undergo simple imprisonment for one year.

2. Learned counsel for the appellant, under instructions submits that the appellant does not intend to contest the appeal on merit, but is pressing his appeal only with a request that the sentence awarded to him for default in payment of fine be modified keeping in view the poor financial status of the applicant/appellant. In response to the aforesaid request, report was called from the respondent-State vide communication dated 27-04-2026 and received by the office of learned Advocate General from the Superintendent of Police, District Kullu, H.P., placed on record by the learned Deputy Advocate General. It has been reported that as per revenue record, appellant is owner in possession of 00-05-45 hectare of land, and there is no vehicle registered in the name of the appellant in the SDM office Manali, District Kullu, H.P., and there is a bank account in the name of the appellant in UCO Bank which is of zero balance and in SBI Manali, appellant has an account with balance of ₹10/-. In Himachal Pradesh Gramin Bank, Prini Branch, appellant has three accounts, one is a saving account having current balance of ₹10,796/- and two fixed deposits amounting to ₹53,583/- and ₹66,097/-. No other property has

been found by the respondent-State apart from the aforesaid detailed property.

3. On behalf of the appellant, income certificate of the appellant has been placed on record, indicating his annual income not exceeding ₹51,000/- per annum from all sources and meaning thereby the monthly income of the family of Tara Chand is between ₹4,000/- to ₹5,000/- per month. In the income certificate it has also been reflected that apart from him appellant has four family members i.e. wife, one daughter and two sons.

4. It has been submitted by the learned counsel for the appellant that from the aforesaid income and sources, the entire family some how maintains themselves and the amount shown in the FDRs in the name of the appellant is the amount earned by the appellant during his detention in the jail by doing manual labor and this amount is required for the family, as there is no any other amount available with the family of the appellant to perform other necessary duties including the marriages of children.

5. In the aforesaid facts and circumstances, by referring judgment passed by the Division Bench of this Court in ***Criminal Appeal No.97 of 2012-C decided on July 8, 2014, titled Man Singh***

Vs. State of HP, judgments of the Apex Court in ***Shahejadjkhan Mahebubkhan Pathan v. State of Gujarat (2013) 1 SCC 570*** and ***Pradeep Bachhar Vs. State of Chhattisgarh reported in (2018) 13 SCC 600***, learned counsel for the appellant has prayed for reduction of sentence to be undergone by the appellant in default of payment of fine. Appellant is going to complete his substantive sentence of 10 years within next two months and thereafter for non-payment of the fine, he has to further undergo imprisonment of one year. Learned counsel for the appellant also submits that in view of the poor financial condition, appellant is not capable of paying fine amount of ₹1,00,000/-.

6. In Man Singh's case(supra), a Division Bench of this High Court, while deciding the main appeal, keeping in view the poor financial status of the appellant, had reduced the sentence to be undergone by the appellant therein in default of payment of fine for a period of six months instead of two years.

7. By the Apex Court in Shahejadjkhan's(supra), considering the circumstances placed on record regarding the poor financial condition of the family and the responsibility of the appellant to maintain his family, and also considering that it was the first offence committed by

him, the sentence period of three years in addition to the substantive sentence in default of payment of fine was reduced to six months.

8. In Pradeep Bachar's case(supra), by the Apex Court, after taking into consideration mitigating factors like the poor economic background of the appellant-accused and his inability to maintain the innocent family members, which were likely to be prejudiced and the appellant-accused was convicted for the first time, the sentence imposed upon him was reduced for default of payment of fine from three years to six months.

9. Taking into consideration, the aforesaid exposition of law referred supra, as well as the material on record indicating the poor financial condition of the family, his responsibility to maintain other four family members, and that it appears from the record that the appellant is a first-time offender, we hereby reduce the sentence of one year to be undergone by the appellant in default of payment of fine of ₹1,00,000/- to a period of three months.

10. After completion of the substantive sentence, the appellant shall undergo three months' imprisonment in default of payment of fine. In case the appellant is able to manage and deposit the fine of ₹ 1,00,000/-, he shall not have to undergo the sentence in

default. However, in case of non-payment, he has to further undergo three months' imprisonment in addition to the substantive sentence imposed upon him.

11. The appeal is accordingly disposed of. Pending miscellaneous application, if any, also stand disposed of accordingly.

***(Vivek Singh Thakur),
Judge.***

***(Bhupesh Sharma),
Judge.***

03rd September, 2026
(Kiran)