

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**Criminal Revision No. 994 of 2019  
Date of decision: 13<sup>th</sup> September, 2023**

State Chandigarh Administration, Chandigarh

Petitioner

Versus

Toni Sharma

Respondent

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Mr. J. S. Toor, Addl. PP for the petitioner.

**AVNEESH JHINGAN, J (Oral):**

1. The U.T. Chandigarh has filed the revision for enhancing the quantum of sentence awarded to respondent (Toni Sharma) in case of FIR No. 211 dated 21.8.2016 under Section 21 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (for short, 'the Act') registered at Police Station, Industrial Area, Chandigarh.
2. The case as set up by the prosecution was that on 21.8.2016, the police party apprehended the respondent and recovered twenty six grams of Heroin.
3. The trial court considering the facts and appreciating the evidence adduced convicted the respondent vide judgment 16.4.2018 under Section 21 of the Act. Vide order dated 17.4.2018, the respondent was sentenced to undergo imprisonment for period of six months with fine of Rs.10,000/-. In case of failure to pay the fine, the respondent had to undergo rigorous imprisonment for one month.

4.            The grievance in the present revision petition is with regard to the quantum of sentence.

5.            Learned counsel for UT, Chandigarh submits that a strict view has to be taken against the accused under the Act.

6.            It is an undisputed fact that the quantity of the contraband recovered from the respondent was not of a commercial quantity but was more than the small quantity. Section 21 of the Act provides for punishment for contravention in relation to manufactured drugs and preparations. Section 21(b) of the Act is quoted below:

***“21. Punishment for contravention in relation to manufactured drugs and preparations.-***

*xx*

*xx*

*xx*

*(b) where the contravention involves quantity, lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years and with fine which may extent to one lakh rupees;”*

7.            From the reading of Section 21(b) of the Act, it is evident that there is no minimum punishment prescribed. It only provides that the imprisonment term may extend upto ten years and fine which may extend to Rs. 1 lakh.

8.            The intent of punishment is of a reformatory measure. The trial court had taken a view considering that the respondent's mother was having heart problem. The respondent had faced the trial for almost one year and six months. Another aspect to be noted is that the impugned order is of April, 2018, there is nothing on record to show that the respondent has not mended his ways and is involved in any criminal activity. The trial court

exercised its discretion in the facts and circumstances of the case. There is no legal or factual error much less perversity in the order of quantum of sentence.

9.                    The revision petition is dismissed.

[AVNEESH JHINGAN]  
JUDGE

13<sup>th</sup> September, 2023  
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|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable         | : | Yes / No |