2025:PHHC:039902

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

598

CRA-S-1421-SB-2007 (O&M)
Date of decision: 24.03.2025

Gurnamo

....Appellant

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. K.S. Kahlon, Advocate
for the appellant.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. The prayer in the present appeal is to set-aside the judgment of conviction dated 31.05.2007 and order of sentence dated 01.06.2007 passed by learned Judge, Special Court, Tarn Taran whereby the appellant was convicted and sentenced for the offence punishable under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter 'the NDPS Act'), in the case stemming from FIR No.212 dated 05.10.2002 registered under Section 15 of the NDPS Act at Police Station Valtoha.

2. The appellant was sentenced as mentioned below:

Offence	Sentence
Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985	Rigorous imprisonment for a period of 01 year and 06 months and to pay fine of Rs.1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for 01 month.

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3. Brief facts of the case are that on 05.10.2002, a police party headed by SI Bikramjit Singh on the basis of suspicion, apprehended the accused/appellant with 3.250 Kgs of Poppy Husk and subsequently, FIR *(supra)* was registered under Section 15 of the NDPS Act.

4. Learned counsel for the appellant contends that he is not assailing the impugned judgment of conviction dated 31.05.2007 on merits and restricts his prayer qua modification of the order on quantum of sentence, to that of the sentence already undergone by the appellant, as she has already undergone a period of 06 months and 01 day and is not involved in any other criminal activity.

5. *Per contra*, learned State counsel opposes the prayer of the appellant on the ground that the learned Court below has passed a well-reasoned judgment based on correct appreciation of evidence available on record as such, she does not deserve any leniency.

6. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the appellant was convicted for being in possession of 3.250 kgs of Poppy Husk, i.e. intermediate quantity, attracting the offence of Section 15 of the NDPS Act, for which no minimum punishment has been prescribed. As per custody certificate, she is not involved in any other case and has already undergone an actual sentence of 06 months and 01 day out of total sentence of 01 year and 06 months, in the instant case. Since there is no minimum punishment prescribed under Section 15 NDPS Act, this Court is of the opinion that it would be in the interest of justice, if the

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sentence awarded to the appellant is reduced to the period already undergone by her.

7. In ***Deo Narain Mandal Vs. State of UP, (2004) 7 SCC 257***, a three-Judge Bench of the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, the manner, in which the offence is committed, age of the accused, should be considered, while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient. Further, a two-Judge Bench of the Hon'ble Supreme Court in ***Ravada Sasikala Vs. State of AP, AIR 2017 SC 1166***, has reiterated that the imposition of sentence also serves a social purpose, as it acts as a deterrent by making the accused realise the damage caused not only to the victim, but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner, in which the crime was committed and conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

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8. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Learned counsel for the appellant has not assailed the judgment of conviction on merits, rather restricted the prayer only qua modification of quantum of sentence to that of the sentence already undergone by the appellant.

9. The FIR in the present case was registered on 05.10.2002 and the appellant has been suffering the agony of trial since the more than 22 years. Since her conviction, the appellant has grown into a law-abiding citizen and desires to live a peaceful life.

10. Consequently, the present appeal is disposed of in the following terms:-

> ***(i) The judgment of conviction dated 31.05.2007 passed by the learned Judge, Special Court, Tarn Taran is upheld.***
>
> ***(ii) The order of sentence dated 01.06.2007 is modified to the extent that the sentence of rigorous imprisonment for a period of 01 year and six months along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by her.***
>
> ***(iii) The sentence of fine of Rs.1,000/- imposed upon the appellant by the learned Court below shall remain intact. The appellant is directed to deposit the said amount in the trial Court, if not deposited so far, within a period of one month from the date of receipt of certified copy of this order. In case of default of payment of fine, the appellant shall be liable to be taken back into custody and made to undergo rigorous imprisonment for a period of one***

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month.

11. All the pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

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