



RAM PARVESH YADAV

V/S

...APPELLANT

STATE OF HARYANA

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Kumar, Advocate (*Amicus Curiae*) for the appellant.

Mr. Harkesh Kumar, AAG, Haryana.

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HARPREET SINGH BRAR, J. (ORAL)

1. The prayer in the present appeal is to set aside the judgment of conviction and order of sentence dated 24/26.05.2006 passed by learned Special Judge, Faridabad, whereby the appellant was convicted and sentenced for the offence punishable under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter ‘NDPS Act’), in the case stemming from FIR No.155 dated 12.07.2004 under Section 20 of the NDPS Act at Police Station Sector-31, Faridabad.
2. The appellant was sentenced as mentioned below:

| Offence                                                                | Sentence                                                                                                                                                     |
|------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 | Rigorous imprisonment for a period of <b>five years</b> and to pay fine of Rs.25,000/- and in default of payment of fine, to further undergo RI for 01 year. |

3. Brief facts of the case are that on 12.07.2004 at about 6:50 PM, SI Daya Nand along with other police officials held *nakabandi* at Sahni



Chowk, Faridabad on the basis of secret information and the appellant, carrying a bag on his right shoulder, was seen coming from Rajiv Nagar side. He was apprehended. Upon search of plastic bag, 6 kgs of *Ganja* was recovered. Subsequently, FIR (*supra*) was registered under Section 20 of the NDPS Act.

4. Learned *amicus curiae* for the appellant *inter alia* contends that the entire case of the prosecution hinges upon the testimonies of official witnesses. He further contends that the investigating officer made no efforts to join any independent witness during the course of investigation or before effecting the alleged recovery, although, the recovery has been made from busy place. Furthermore, there is non-compliance of Sections 52, 55 and 57 of NDPS Act. He submits that there are material contradictions and fatal improvements in the depositions of witnesses, especially pertaining to keeping the samples of contraband intact till the same supplied to Forensic Science Laboratory, Madhuban for examination, as such, the possibility of tampering with the case property cannot be ruled out, which breaks the chain of the case set up by the prosecution. Lastly, he submits that the appellant has already undergone total custody period of 03 years, 07 months and 27 days, out of total sentence of five years, in the instant case and he is not involved in any other case.

5. *Per contra*, learned State counsel opposes the prayer of the appellant as the learned Court below has passed a well-reasoned judgment based on correct appreciation of evidence available on record as such, he 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 6 kgs of *Ganja*, which falls under the purview of Section 20 of NDPS Act. As per his custody certificate, he has already undergone an actual sentence of 03 years, 07 months and 27 days out of total sentence of five years, in the instant case. Since there is no minimum punishment prescribed under Section 20 of NDPS Act, for the non-commercial quantity this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the appellant is reduced to the period already undergone by him.

7. In ***Deo Narain Mandal vs. State of U.P. (2004) 7 SCC 257***, 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, 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.

8. Further, 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 the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

9. 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. However, the FIR (*supra*) was lodged on 12.07.2004 and the appellant has been suffering the agony of trial for last more than 20 years. Since his conviction, he has grown into a law-abiding citizen and desires to live a peaceful life.

10. Therefore, in view of the discussion above, the present appeal is disposed of in the following terms:-

- (i) The judgment dated 24.05.2006 passed by the learned Special Judge, Faridabad is upheld.
- (ii) The order of sentence of dated 26.05.2006 is modified to the extent that the sentence of rigorous imprisonment for five years and fine along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.

11. The High Court Legal Services Authority is directed to pay remuneration to the learned *Amicus Curiae* as per rules.

May 21, 2025  
manisha

(HARPREET SINGH BRAR)  
JUDGE

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|------|---------------------------|--------|
| (i)  | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable        | Yes/No |