

**CRA-S-173-SB-2008****1**

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

322

**CRA-S-173-SB-2008
Date of Decision: 17.11.2025**

ASHRUDIN**... APPELLANT**

VERSUS

STATE OF HARYANA**... RESPONDENT****CORAM : HON'BLE MR. JUSTICE H.S.GREWAL**

Present:- Mr. Satish Chaudhary, Advocate for the appellant.

Mr. Sunny Namdev, AAG, Haryana.

H.S. Grewal, J.(Oral)

1. This appeal has been filed against the judgment dated 18.12.2007 passed by Id. Addl. Sessions Judge, Fast Track Court, Gurgaon vide whereby vide order dated 18.12.2007 the appellant was convicted and vide order dated 20.12.2007 was sentenced under Section 307 IPC to undergo RI for seven years and to pay a fine of Rs. 2000/- in default of payment of fine , he shall further undergo RI for six months and under Section 332 IPC sentenced to under RI for two years. Sentence was ordered to run concurrently.

2 The prosecution case, in brief, is that on 13.09.2006, Chander Bhan, ASI, along with other police officials, was present at Bus Stand Kot on patrolling duty when he received secret information that accused Kutkarni @ Zafar was present in his house along with three or four other persons, and that



if a raid were conducted, he could be apprehended. It was further disclosed that Kutkarni @ Zafar was wanted in FIR No. 141 of 2005, registered under Sections 307, 506, 34 IPC and Section 25 of the Arms Act at Police Station Hathin. Chander Bhan ASI, therefore, informed the SHO, Police Station Hathin, over his mobile phone. Pursuant thereto, a raiding party was organized, and they proceeded to the house of Kutkarni @ Zafar. On arrival at the spot, the wife of Kutkarni, namely Bssan @ Baskar, and Afsari raised an alarm that the police had arrived. Asloop, father of Kutkarni, also raised shouts cautioning that the police had come and should not be allowed to escape. At this, Kutkarni, the present accused Ashrudin, and Fakrudin, along with three or four others, emerged armed with weapons. Kutkarni fired at the police party with a gun, causing injuries to Lakhi Ram. The present accused, Ashrudin, fired a gunshot in the air, which resulted in injuries to Mahabir. Constable Dinesh also fired two rounds in the air. Fakrudin similarly fired from his firearm, and Constable Dinesh responded by firing three more rounds in the air. Thereafter, the accused persons, along with Kutkarni's wife, fled from the spot. On the basis of this information, the present FIR was registered and investigation commenced. The accused Ashrudin was arrested, and upon completion of the investigation, the challan was presented.

3. Learned counsel for the appellant contends that he is not assailing the impugned judgment of conviction dated 18.12.2007 on merits and restricts his prayer qua modification of the order on quantum of sentence, to the period as already undergone by the appellant, as he has already undergone a sentence

**CRA-S-173-SB-2008****3**

of 02 years 01 months and 14 days out of awarded sentence of seven years. He further prays that since FIR in question pertains to the year 2005, a lenient view may be taken while passing an order on quantum by this Court.

4. On the other hand, learned State counsel opposes the prayer of the appellant by way of filing of custody certificates and submits that the Court below has passed a well reasoned judgment based on correct appreciation of evidence available on record.

5. I have heard learned counsel for the parties and have gone through the material placed on record.

6. Hon'ble the Supreme Court in "*Deo Narain Mandal Vs. State of UP*", (2004) 7 SCC 257, has held 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 appellant, 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.

7. Further, a Division Bench of the Hon'ble Supreme Court in *Ravada Sasikala Vs. State of AP*, AIR 2017 SC 1166, has held that the imposition of sentence also serves a social purpose, as it acts as a deterrent by

**CRA-S-173-SB-2008****4**

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.

8. A perusal of the judgment of conviction passed by the Courts below indicates no perversity in their findings and the same are based on correct appreciation of evidence available on record. However, learned counsel for the appellant has not assailed the judgments, rather restricted the prayer only qua modification of quantum of sentence to that of the sentence already undergone by the appellant.

9. As far as the question of quantum of sentence is concerned, it is worthwhile to note that the occurrence in this case pertains to the year 2005. The right to speedy and expeditious trial is one of the most valuable and cherished rights guaranteed under the Constitution. The appellant has already suffered the agony of protracted trial, spanning over a period of more than 20 years and has been in the corridors of the court for this prolonged period. In view of the facts noted above, the case of the appellant deserves to be dealt with leniency. The appellant also deserves the benefit of the consistent view taken by this court in this regard. Thus, guided by the judicial pronouncements made by the Hon'ble Supreme Court in the cases of *Haripada Das Vs. State of*



CRA-S-173-SB-2008

5

West Bangal reported in (1998) 9 SCC 678 and Alister Anthony Pareira vs. [2023:RJ-JD:28174] (5 of 5) [CRLR-755/2003] State of Maharashtra reported in 2012 2 SCC 648 and considering the facts and circumstances of the case, age of appellant, his status in the society and the fact that they faced financial hardship and had to go through mental agony, this court is of the view that ends of justice would be met, if sentence imposed upon the appellant is reduced to the period as already undergone by him.

11. Accordingly, judgments passed by the Id. Appellate Court is hereby affirmed but the quantum of sentence awarded by the Court concerned under Sections mentioned above has been modified and reduced to the period of sentence as already undergone by him. The appellant is on bail. He need not surrender. His bail bonds are discharged.

12. With these modifications, the present revision appeal is disposed of.

13. Pending application(s), if any, shall also stand disposed of.

17.11.2025
renu

(H.S.GREWAL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No