



CRA-S-2556-SB-2007 (O&M)

1

769

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-2556-SB-2007 (O&M)
Date of Decision: 02.04.2025

RAJINDER SINGH

...APPELLANT

Versus

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Gurpreet Kaur, Advocate as *Amicus Curiae*
for the appellant.

Mr. Harkesh Kumar, AAG Haryana.

Harpreet Singh Brar, J. (Oral)

1. Present appeal has been preferred by the appellant against the judgment of conviction and order on quantum of sentence dated 13.12.2007/14.12.2007 passed by learned Sessions Judge, Fatehabad vide which the appellant has been convicted and sentenced as mentioned below:

Offence under Section	Sentence	Fine	Sentence in default of payment of fine
18 of NDPS Act	Rigorous imprisonment for six months	Rs. 5,000/-	Simple imprisonment for one month

2. Brief facts of the case are that on 23.02.2005, a police party headed by SI Baljit Singh was patrolling the area at Panna Chowk, Bhuna. One Mani Ram met Baljit Singh and while he was talking to the said Mani Ram, he received a secret information regarding possession of a country made pistol by the accused. So, SI Baljit Singh arranged a raiding party and started travelling towards the house of the accused. When they reached at the house of the accused, the accused-appellant came out of the house. Seeing the police party, he threw a bag and ran away. Though, he was chased by Constables Ashok Kumar and Ram Mehar, but he could not be apprehended. On checking the bag

**CRA-S-2556-SB-2007 (O&M)****2**

thrown by the appellant-accused, a pistol of 315 bore alongwith three live cartridges were recovered. The bag was also containing another plastic bag containing opium. Two samples of 20 grams each were separated from the recovered opium. The residue weighed 210 grams. All the parcels were sealed. FIR(*supra*) was registered under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as 'NDPS Act') and Section 25 of Arms Act.

3. Learned *Amicus Curiae* for the appellant *inter alia* contends that prosecution has failed to prove its case beyond the shadow of reasonable doubt and there are material discrepancies regarding depositing the case property. Before preparation of the report by Ranvir Singh, Armer, no test fire was made from the weapon and prosecution has failed to connect the appellant with the alleged recovery of weapon and no independent witness was joined during the course of investigation. The entire case of prosecution is based upon the testimonies of official witnesses and allegedly, 250 grams of opium was recovered from the appellant, which falls within the ambit of small quantity. Further, the appellant is not involved in any other case and has undergone a period of 04 months and 12 days of custody out of total sentence of 06 months awarded to him.

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

5. 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 250 grams of opium, attracting the offence under

**CRA-S-2556-SB-2007 (O&M)****3**

Section 18 of NDPS Act, for which no minimum punishment has been prescribed. Appellant has already undergone custody of 04 months and 12 days out of total sentence of 06 months, in the instant case. Since there is no minimum punishment prescribed under Section 18 of NDPS Act, 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.

6. In **Deo Narain Mandal v. 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, 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.

7. Further, a two Judge Bench of the Hon'ble Supreme Court in **Ravada Sasikala v. 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

**CRA-S-2556-SB-2007 (O&M)****4**

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 learned trial Court indicates no perversity in its findings and the said judgment is based on correct appreciation of evidence available on record. However, the FIR (supra) was lodged on 23.02.2005 and the appellant has been suffering the agony of trial for last more than 20 years. Since his conviction, the appellant has reformed into a law-abiding citizen and intends to live a peaceful life.

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

(i) The judgment dated 13.12.2007 passed by the learned Sessions Judge, Fatehabad is upheld.

(ii) The order of sentence dated 14.12.2007 is modified to the extent that the sentence of rigorous imprisonment for 06 months along with fine of Rs. 5,000/- with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.

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

11. High Court Legal Services Committee is directed to pay remuneration to the *Amicus Curiae*, as per rules.

(HARPREET SINGH BRAR)
JUDGE

02.04.2025

Ajay Goswami

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No