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

CRA-S-2157-SB-2004 (O&M)

Date of decision: 02.07.2025

Harjinder Kaur

... Appellant

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Veneet Sharma, Advocate and
Mr. Mayank Mahla, Advocate
for the appellant.

Mr. Subhash Godara, Addl. A.G., Punjab.

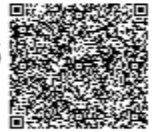
Mr. Sourabh Goel, Sr. Standing Counsel
for respondent No.2.

HARPREET SINGH BRAR, J. (ORAL)

1. Present appeal has been preferred against the judgment of conviction and the order of sentence dated 26.10.2004 passed by learned Judge, Special Court, Amritsar, in a complaint under Sections 8, 21, 22, 25, 27, 28, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act').

2. The appellant was convicted and sentenced under Section 21 of

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NDPS Act for keeping in her possession 69 grams of smack and was ordered to undergo rigorous imprisonment for a period of 02 years and to pay a fine of Rs.50,000/- along with default mechanism.

3. On 18.01.2024, following order was passed: -

“Learned counsel for respondent No.2 has produced the letter dated 12.01.2024 as also the visit note dated 10.01.2024, as per which, the appellant Harjinder Kaur is alive but suffering from various ailments including high blood pressure, sugar and kidney problems. Both documents are taken on record.

Learned State counsel has produced the affidavit of custody, as per which, she has undergone 02 months and 29 days out of 02 years.

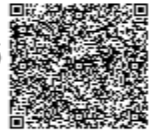
Arguing counsel for the appellant is stated to be not available, as such, an adjournment is sought on his behalf.

In the interest of justice, adjourned to 06.02.2024.

To be shown in the urgent list.”

4. Learned counsel for the appellant, *inter alia*, contends that he is not assailing the impugned judgment of conviction dated 26.10.2004 on merits and restricts his prayer qua modification of the order of sentence, to that of the sentence already undergone by the appellant, as she has undergone the actual sentence of 02 months and 29 days, out of rigorous imprisonment of 02 years. The appellant is involved in one more case under NDPS Act, however, she stands acquitted in that case.

5. *Per contra*, learned State counsel, assisted by learned counsel for

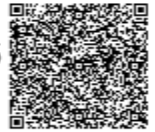


respondent No.2, opposes the prayer of the appellant, as learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record.

6. It is pertinent to mention here that sentence of the appellant was suspended by this Court on 17.01.2005. As per custody certificate dated 18.12.2023 available on record, she underwent actual sentence of 02 months and 29 days.

7. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the appellant was convicted for being in possession of 69 grams of smack, i.e. intermediate quantity, attracting the offence of Section 21 of NDPS Act, for which no minimum punishment has been prescribed. The appellant has already undergone an actual sentence of 02 months and 29 days, out of two years R.I. awarded by learned trial Court, in the instant case. Since there is no minimum punishment prescribed under Section 21 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 her.

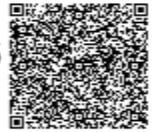
8. In *Deo Narain Mandal Vs. State of U.P., (2004) 7 SCC 257*, the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested 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.

9. 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 realize 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.

10. A perusal of the judgment of conviction passed by learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. However, the complaint (*supra*) pertains to the year 2002 and the appellant has been suffering the agony of trial for the last more than 22 years. Since her conviction, the appellant has grown into a law-abiding citizen and desires to live a peaceful life.



11. Accordingly, 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 her.

12. Consequently, the present appeal is disposed of and the judgment of conviction dated 26.10.2004 passed by learned Judge, Special Court, Amritsar is upheld, however, the order of sentence of even date is modified to the extent that the sentence of rigorous imprisonment of 02 years and fine of Rs.50,000/- along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by her.

13. Since sentence of the appellant was suspended vide order dated 17.01.2005, her bail/surety bonds shall be discharged.

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

02.07.2025
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No