

CRA-S-1206-SB-2011 (O&M)1

247IN THE HIGH COURT OF PUNJAB & HARYANA

AT CHANDIGARH

CRA-S-1206-SB-2011 (O&M)
Date of Decision: 06.03.2025

MONU PURI...Appellant

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gautam Kumar, Advocate for
Mr. Satnam Singh Gill, Advocate for the appellant.

Mr. Sandeep Kumar, DAG Punjab

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 19.04.2011/21.04.2011 passed by learned Additional Sessions Judge-I, 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
20 of NDPS Act	Rigorous imprisonment for two years	Rs. 2,000/-	Rigorous imprisonment for two months

2. Brief facts of the case are that on 26.09.2009, a police party headed by ASI Atma Ram spotted the appellant-accused near Saraswati Vidhya Mandir School, Tohana. The accused was coming from the side of Tehsil road and he tried to turn back on seeing the police party. Therefore, he was apprehended on the basis of suspicion, suspecting that accused was carrying some contraband in his possession. Upon personal search of the accused-appellant, a polythene packet containing Charas was recovered from right pocket of his pent. Two

**CRA-S-1206-SB-2011 (O&M)****2**

the remainder, on weightment was found to be 150 grams. Subsequently, FIR (*supra*) was registered under Section 20 of the NDPS Act.

3. Learned counsel for the appellant *inter alia* contends that there is non-compliance of Section 50 of NDPS Act as the search was not conducted in the presence of Magistrate or Gazetted Officer. Further, the Investigating Officer has not associated any independent witness in the investigation. It is further argued that there is non-compliance of mandatory provisions of Section 57 of NDPS Act and the case property was produced before SI Ram Kumar, who was not Head of the Police Station at the relevant time. Learned counsel further submits that the appellant has already undergone a period of 08 months and 22 days out of total sentence of two years imposed upon 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 Charas, attracting the offence under Section 20 of NDPS Act, for which no minimum punishment has been prescribed. As per his custody certificate, he is not involved in any other case and has already undergone an actual sentence of 08 months and 22 days out of total sentence of 02 years, in the instant case. Since there is no minimum punishment prescribed under Section 20 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.

**CRA-S-1206-SB-2011 (O&M)****3**

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 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.

9. Therefore, in view of the discussion above, the present appeal is

disposed of in the following terms:-

**CRA-S-1206-SB-2011 (O&M)****4**

(i) The judgment dated 19.04.2011 passed by the learned Additional Judge, Fatehabad is upheld.

(ii) The order of sentence dated 21.04.2011 is modified to the extent that the sentence of rigorous imprisonment for 02 years along with fine of Rs. 2,000/- 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.

(HARPREET SINGH BRAR)
JUDGE

06.03.2025*Ajay Goswami**Whether speaking/reasoned**Whether reportable**Yes/No**Yes/No*