



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

327

CRA-S-1478-SB-2005(O&M)
Date of Decision: 06.03.2025

SEWA SINGH

...Appellant

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. K.S. Dhaliwal, Advocate with
Mr. Jatin Kundu, Advocate and
Mr. Vicky Sharma, Advocate
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 of sentence dated 03.08.2005/04.08.2005 passed by learned Judge, Special Court, Kaithal vide which the appellant has been convicted under Section 15 of NDPS Act and sentenced as mentioned below:

Offence under Section	Sentence	Fine	Sentence in default of payment of fine
15 of NDPS Act	Rigorous imprisonment for one year	Rs. 2,500/-	Rigorous imprisonment for two months

2. Learned counsel for the appellant *inter alia* contends that the prosecution have failed to comply with the mandatory provisions of Section 50

of the Act and on this ground alone, the appellant is entitled to acquittal.



Further, the provisions of Section 57 of the Act have not been complied with as PW-2-Mauji Ram Sub Inspector had admitted in his cross-examination that Investigating Officer-Waryam Singh had prepared the report under the provisions and there cannot be two authors of one report. The case was never produced properly before the trial Court and no independent witness had ever joined during the investigation. He further contends that he is not assailing the impugned judgment of conviction dated 03.08.2005 passed by learned Judge, Special Court, Kaithal on merits and restricts his prayer to modification of the order on quantum of sentence dated 04.08.2005 to that of sentence already undergone by the appellant as he has already undergone a period of one month and 18 days and involved in other cases, however, he is on bail in those cases.

3. 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.

4. I have heard learned counsel for the parties and perused the record with their able assistance.

5. 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.

6. 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.

7. 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. Moreover, learned counsel for the appellant has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua modification of quantum of sentence.

8. The FIR in the present case was lodged on 08.04.2002 and the appellant has been suffering the agony of trial since the last about 23 years. As per the custody certificate, the appellant has undergone total sentence of one month and 18 days out of rigorous sentence of one year awarded to him, however, he is involved in other cases as per the custody certificate but on bail in those cases.

9. 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 him especially when minimum punishment is not provided for the alleged offence.

10. Consequently, the present petition is disposed of in the following terms:-

- (i) The judgment of conviction dated 03.08.2005 passed by the learned Judge, Special Court, Kaithal is upheld, however, the order of sentence dated 04.08.2005 is modified to the extent that the sentence of rigorous imprisonment for one year awarded to the appellant is reduced to the period of sentence already undergone by him.
- (ii) Fine of Rs. 2,500/- imposed upon the appellant is remained intact as ordered by trial Court. The appellant is directed to deposit the amount of fine in the trial Court within one month from the date of receipt of certified copy of this order and in case of default of payment of fine, the appellant shall be liable to be taken into custody and made to undergo simple imprisonment for one month.

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

(HARPREET SINGH BRAR)
JUDGE

06.03.2025
P.Bhatt

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>