



CRA-S-551-SB-2009 (O&M)

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1233 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-551-SB-2009 (O&M)

Date of Decision: 08.05.2025

ANGREJ SINGH AND OTHERS

...APPELLANTS

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rahul Rana, Advocate as *Amicus Curiae*
for the appellants.

Mr. Nitesh Sharma, DAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. Present appeal has been preferred by the appellants against the judgment of conviction and order on quantum of sentence dated 27.02.2009 passed by learned Judge, Special Court, Bathinda vide which the appellants have 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 two years each	Rs. 2,000/- each	Rigorous imprisonment for 01 month each

2. Brief facts of the case are that on 04.06.2006, the police party headed by Assistant Sub Inspector Gursewak Singh and other police officials were present at the culvert of minor in the village Sekhu, for checking the vehicles and suspects. A Maruti Car of green colour bearing No. PB-02Q-4485 came there and it was intercepted by the police for checking. There were three occupants in the car and the driver of the car disclosed his name as Angrej Singh, the person sitting with him on the front side, disclosed his name as Bhagwant Singh and the person sitting on the back seat disclosed his name as Harjinder Singh. Some suspicious substance was lying wrapped in a glazed envelope near hand brake in the said car. On the basis of suspicion, personal

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search of the appellants along with the glazed envelope was conducted. On search of glazed envelope, opium was recovered. Out of the said opium, two samples of 10 grams each were separated and remaining on weighment was found to be 680 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').

3. Learned *Amicus Curiae* for the appellants *inter alia* contends that the offer given to the appellants in terms of Section 50 of NDPS Act was defective. As such, there is non-compliance of Section 50 of NDPS Act. One Sukhmander Singh was joined as independent witness, however, he was not examined by prosecution. Further, there is non-compliance of Section 57 of NDPS Act. Special report has not been sent by the Investigating Officer. Further the IO has retained the custody of the recovered contraband and the representative sample was deposited on 08.06.2006, i.e. after 05 days of the alleged occurrence. The appellants have already undergone custody of 02 months and 16 days.

4. Per contra, learned State counsel opposes the prayer of the appellants 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 appellants do 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 appellants were convicted for being in possession of 700 grams of opium, attracting the offence under Section 18 of NDPS Act, for which no minimum punishment has been prescribed. The appellants have already undergone custody of 02 months and 16 days each out of total sentence of 02



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years each, 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 appellants is reduced to the period already undergone by them.

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.

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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 04.06.2006 and the appellants have been suffering the agony of trial for last more than 18 years. Since their conviction, the appellants have reformed into a law-abiding citizens and intend to live a peaceful lives.

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

(i) The judgment dated 27.02.2009 passed by the learned Judge, Special Court, Bathinda is upheld.

(ii) The order of sentence dated 27.02.2009 is modified to the extent that the sentence of rigorous imprisonment for 02 years each along with fine of Rs. 2,000/- each with default mechanism awarded to the appellants is reduced to the period of sentence already undergone by them.

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

08.05.2025*Ajay Goswami**Whether speaking/reasoned**Whether reportable**Yes/No**Yes/No*