



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

342

CRA-S-300-SB-2006 (O&M)
Date of decision: 19.05.2025

Sisha Singh and another

....Appellants

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Charanjit Singh Jattana, Advocate
for the appellants.

Mr. Harkesh Kumar, AAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

1. The prayer in the present appeal is to set-aside the judgment of conviction dated 24.01.2006 and order of sentence dated 25.01.2006 passed by learned Additional Sessions Judge, Fatehabad whereby the appellants were convicted and sentenced for the offence punishable under Section 18(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter ‘the NDPS Act’), in the case stemming from FIR No.542 dated 18.12.2000 registered under Section 18 of the NDPS Act at Police Station Ratia.
2. The appellants were found in possession 01 Kg and 750 gms of Opium, for which they were convicted and sentenced as follows:

Offence	Sentence
Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985	Rigorous imprisonment for a period of 04 years each and to pay fine of Rs.20,000/- each and in default of payment of fine, to further undergo simple imprisonment for 01 year.



3. Learned State counsel at the very outset, on instructions from SI Rajbir, submits that appellant No.1 – Sisha Singh had died during the COVID-19 pandemic and in this regard, statement of Sarpanch, Gram Panchayat village Badbar, District Barnala has been produced, which is taken on record as Mark X.

4. Learned counsel for appellant No.2 contends that he is not assailing the impugned judgment of conviction dated 24.01.2006 on merits and restricts the prayer qua modification of the order on quantum of sentence, to that of the sentence already undergone by appellant No.2, as he has already undergone a period of 01 year, 11 months and 01 day and is not involved in any other criminal activity.

5. *Per contra*, learned State counsel opposes the prayer of appellant No.2 on the ground that the learned Court below has passed a well-reasoned judgment based on correct appreciation of evidence available on record as such, the appellant No.2 does not deserve any leniency.

6. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the appellant No.2 was convicted for keeping in possession 01 Kg and 750 gms of Opium, i.e. intermediate quantity, attracting the offence of Section 18 of the NDPS Act, for which no minimum punishment has been prescribed. As per custody certificate, the appellant No.2 is not involved in any other case and has already undergone an actual sentence of 01 year, 11 months and 01 day out of total sentence of 04 years, in



the instant case. Since there was no minimum punishment prescribed under Section 18 of the NDPS Act, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to appellant No.2 is reduced to the period already undergone by him.

7. In ***Deo Narain Mandal Vs. 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, the 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.

8. Further, a two-Judge Bench of 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 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 conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

9. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Learned counsel for appellant No.2 has not assailed the judgment of conviction on merits, rather restricted the prayer only qua modification of quantum of sentence to that of the sentence already undergone by appellant No.2.

10. The FIR in the present case was registered on 18.12.2000 and the appellant No.2 is suffering the agony of trial since the last more than 24 years. Since the conviction, the appellant No.2 has grown into a law-abiding citizen and desires to live a peaceful life.

11. Consequently, the present appeal is disposed of qua appellant No.2 in the following terms:-

(i) The judgment of conviction dated 24.01.2006 passed by the learned Additional Sessions Judge, Fatehabad is upheld.

(ii) The order of sentence is modified to the extent that the sentence of rigorous imprisonment for a period of 04 years and fine along with default mechanism awarded to the appellants is reduced to the period of sentence already undergone by him.

12. Before parting with this order, in view of the judgment rendered by this Court in ***Shivji Ram @ Dimple vs. State of Punjab 2023(1) R.C.R.(criminal) 738*** as well as the Full Bench of the Kerala High Court in ***Pazhani S/o Chami vs. State of Kerala 2017(1) R.C.R.***



(Criminal) 1045, the present appeal is disposed of qua appellant No.1 – Sisha Singh as well, with the following directions:-

- 1. The instant appeal stands abated on account of death of the appellant No.1 – Sisha Singh.*
- 2. The State exchequer shall be at liberty to recover the fine amount by adopting due process of the law.*
- 3. If State chooses to start recovery process of the amount of fine from the estate of the deceased appellant No.1 – Sisha Singh, a valid notice in that regard would be served upon the legal heirs who have a vested right in the said estate.*
- 4. If any such legal heir(s) or any interested person(s) are aggrieved with the process of recovery of fine, they may move an appropriate application before this Court seeking revival of the appeal. However, the same must be done within a period of 30 days of receipt of such notice.*
- 5. Such legal heir(s) or any interested person(s) would also be at liberty to deposit the total amount of fine, which is subject matter of the appeal, in the office of concerned authority.*
- 6. If revived, the appeal shall be heard on merits.*

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

(HARPREET SINGH BRAR)
JUDGE

19.05.2025
yakub

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No