



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

**CRA-S-2424-SB-2011
Date of decision: 20.02.2025**

RAJ SINGH

...APPELLANT

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. K.S. Brar, Advocate for the appellant.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This appeal has been preferred against the judgment of conviction and order of sentence dated 12.09.2011 passed by learned Judge, Special Court, Sri Muktsar Sahib, whereby, the appellant has been awarded rigorous imprisonment for two years with a fine of Rs.10,000/- along with default mechanism, in case stemming from FIR No.74 dated 21.05.2007 registered under Section 18 of NDPS Act at Police Station Sadar Muktsar have been upheld.

2. Brief facts of the present case are that on 21.05.2007, when the police party was going from village Fattan Wala to Jalalabad Road in connection with patrolling and checking of suspects, in the area of Fattan Wala, one suspect was seen coming from village Akalgarh, carrying a polythene envelope, in his right hand. On suspicion, the police party apprehended him and on inquiry, he disclosed his name as Raj Singh (appellant herein). Upon his search, 500 grams of opium was recovered. Hence, FIR (*supra*) was registered.



4. The appellant was convicted and sentenced vide judgment of conviction and order of sentence dated 12.09.2011 passed by learned trial Court. Aggrieved by the same, he has approached this Court.

5. Learned counsel for the appellant contends that he is not assailing the impugned judgment of conviction dated 12.09.2011 on merits and restricts his prayer to modification of the order on quantum of sentence to that of the sentence already undergone by the appellant. As per custody certificate, the appellant has undergone a custody period of about 06 months and 07 days, including custody after conviction and he is not involved in any other case.

6. *Per contra*, learned State counsel 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. As such, he does not deserve any leniency.

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

8. 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.



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.

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. 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.

10. The FIR in the present case was lodged on 21.05.2007 and the appellant has been suffering the agony of protracted trial for the last more than 17 years. Since his conviction, the appellant has grown into law-abiding citizen and desires to live a peaceful life. As per custody certificate, the appellant has undergone a custody period of about 06 months and 07 days, including custody after conviction and he is not involved in any other case.

11. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the appeal is reduced to the period already undergone by him.

12. Consequently, the present appeal is disposed of in the following



terms:-

- (i) The judgment of conviction dated 12.09.2011 passed by the learned Judge, Special Court, Sri Muktsar Sahib is upheld, however, the order of sentence dated 12.09.2011 is modified to the extent that the sentence of rigorous imprisonment for two years along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.
- (ii) Fine of Rs.10,000/- imposed upon the appellant is enhanced to Rs.20,000/-. 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 rigorous imprisonment for one month. Fine amount already deposited, if any, be adjusted.

February 20, 2025
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(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |