



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

347

CRA-S-423-SB-2006 (O&M)
Date of Decision: 06.03.2025

SUKHWINDER KUMAR

...Appellant

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Deepak Aggarwal, Advocate for
Mr. Sandeep Majithia, Advocate
for the appellant.

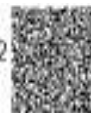
Mr. Rishabh Singla, AAG, Punjab.

Harpreet Singh Brar, J. (Oral)

1. Present appeal has been preferred by the appellant against the judgment of conviction and order of sentence dated 15.02.2006/16.02.2006 passed by learned Judge, Special Court, Jalandhar vide which the appellant has been convicted under Section 18 of NDPS Act and sentenced as mentioned below:

Offence under Section	Sentence	Fine	Sentence in default of payment of fine
18 of NDPS Act	Rigorous imprisonment for nine months	Rs. 2,000/-	Rigorous imprisonment for one month

2. Learned counsel for the appellant *inter alia* contends that no independent witness was examined and the appellant was apprehended in a busy and crowded place. There is a delay of 10 days in sending the representative

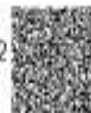


sample to CFSL Laboratory. The alleged recovery was made on 14.04.2002 and sample was sent on 24.04.2002 after a delay of 10 days. Further, the offer made under Section 50 of the NDPS Act was defected. He further contends that he is not assailing the impugned judgment of conviction dated 15.02.2006 passed by learned Judge, Special Court, Jalandhar on merits and restricts his prayer to modification of the order on quantum of sentence dated 16.02.2006 to that of sentence already undergone by the appellant as he has already undergone a period of one month and 23 days.

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 14.04.2002 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 1 month 23 days out of rigorous sentence of nine months awarded to him.

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 15.02.2006 passed by the learned Judge, Special Court, Jalandhar is upheld, however, the order of sentence dated 16.02.2006 is modified to the extent that the sentence of rigorous imprisonment for nine months awarded to the appellant along with payment of fine is reduced to the period of sentence already undergone by him.

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>