

315 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRA-S-598-SB-2005 (O&M)
Date of Decision: 05.03.2025

SATNAM SINGH

...Appellant

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. T.P.S. Bawa, Advocate as Legal Aid Counsel
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 on quantum of sentence dated 24.03.2005/25.03.2005 passed by learned Additional Sessions Judge, Fatehabad vide which the appellant has 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	Rs. 10,000/-	Rigorous imprisonment for three months

2. Brief facts of the case are that on 23.10.2002, a police party headed by SI Ishwar Singh was on patrolling duty in Govt. Vehicle bearing registration No. HR-22C/0844. In the meantime accused person came there on a Hero Honda Motor-cycle bearing registration No. PB04C/3066. He was stopped by the police party and his name and address was obtained. Upon search of his motor-cycle, 500 grams opium was recovered, wrapped in wax paper and under seat of motor-cycle. Subsequently, FIR (*supra*) was registered under Section 18 of the NDPS Act.

3. Learned Legal Aid Counsel for the appellant *inter alia* contends that the entire case of the prosecution is based upon the testimony of official



witnesses and during the investigation, no independent witness from the public, was joined. There are material contradictions in the statements of official witnesses, which render their statements unreliable and the link evidence is missing and provisions of Section 50 of NDPS Act have not been complied with. Rather the defence has produced DW-1 Bant Singh, who clearly proved that appellant has been falsely implicated at the behest of one Sant Singh. Learned Legal Aid Counsel further submits that the appellant has already undergone a period of 02 months and 05 days out of total sentence of two years imposed upon him.

4. 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.

5. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the appellant was convicted for being in possession of 510 grams of opium, attracting the offence of Section 18 NDPS Act, for which no minimum punishment has been prescribed. As per his custody certificate, he is not involved in any other case and has already undergone an actual sentence of 02 months and 05 days out of total sentence of 02 years, in the instant case. Since there is no minimum punishment prescribed under Section 18 NDPS Act, 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.

6. In **Deo Narain Mandal v. State 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.

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.

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

- (i) The judgment dated 24.03.2005 passed by the learned Additional Judge, Fatehabad is upheld.
- (ii) The order of sentence dated 25.03.2005 is modified to the extent that the sentence of rigorous imprisonment for 02 years along with fine of Rs. 10,000/- with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.

- 10. Pending miscellaneous application(s), if any, shall also stand disposed of.
- 11. The High Court Legal Services Authority is directed to pay remuneration to the learned Legal Aid Counsel as per rules.

05.03.2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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