



CRA-S-274-SB-2011

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

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CRA-S-274-SB-2011
Date of Decision: 14.05.2025

Joga Ram

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE H.S.GREWAL.

Present: Mr. G.S.Simble, Advocate for the petitioner.
Mr. Manvir Singh Toor, AAG, Punjab.

H.S. GREWAL, J. (ORAL)

1. The present appeal has been filed against the impugned judgment of conviction and order of sentence dated 25.01.2011 passed by the learned Judge, Special Court, SBS Nagar in case FIR No.168 dated 29.06.2005 whereby he has been convicted under Section 15 of the NDPS Act and sentenced to undergo rigorous imprisonment for a period of 06 months and to pay a fine of Rs.1000/- of in default of payment of fine to further undergo rigorous imprisonment for 15 days.

2. The case of the prosecution is that on 29.06.2005, ASI along with other police officials were patrolling. At about 10:00 one scooter bearing registration No. PB32-B-6865 Bajaj Chetak, which was being driven by the appellant and behind him his mother namely Tejo was sitting. On seeing the police party, they tried to turn back. Thereafter, they disclosed their names. One bag was lying near the feet of the appellant and it was suspected that there is some intoxicant material in the bag and its search was conducted and 10 kg of poppy husk was recovered. Pursuant

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thereto, vide order dated 25.01.2011 passed by the learned Judge, Special Court, SBS Nagar whereby accused-Tejo (mother of the appellant) was acquitted and the appellant was convicted and sentenced to undergo aforesaid imprisonment.

3. Learned counsel for the appellant contends that he is not assailing the impugned judgment of conviction dated 25.01.2011 on merits and restricts his prayer qua modification of the order on quantum of sentence, to the period as already undergone by the appellant, as he has already undergone a period of 03 months and 23 days out of total sentence of 06 months. He further prays that since the FIR in question pertains to the year 2005, a lenient view may be taken while passing an order/ judgment by this Court.

4. On the other hand, learned State counsel opposes the prayer of the appellant by way of filing of custody certificate dated 13.05.2025 on the ground that the appellant is involved in one other case and the learned Court below has passed a well reasoned judgment based on correct appreciation of evidence available on record.

5. I have heard learned counsel for the parties and have gone through the material placed on record.

6. The appellant has been convicted for having in possession of 10 kgs of poppy husk which falls in the category of non-commercial quantity attracting the offence of Section 15 of the NDPS Act, for which no minimum punishment has been prescribed. Moreover, the FIR in the present case pertains to the year 2005 and the appellant has already faced the rigors of the trial for more than 20 years.



7. Hon'ble the Supreme Court in “*Deo Narain Mandal Vs. State of UP*”, (2004) 7 SCC 257, has held 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-Judges Bench of the Hon'ble Supreme Court in *Ravada Sasikala Vs. State of AP*, AIR 2017 SC 1166, has held 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. However, learned

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counsel for the appellant 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 the appellant.

10. Since the FIR in the present case was registered on 29.06.2005 and the appellant has been suffering the agony of trial since the last more than 20 years. Since there is no minimum punishment prescribed under Section 15 of the NDPS Act and keeping in view the fact the FIR is of the year 2005 and the appellant has faced the rigors of trial for a period of more than 20 years and therefore, while taking a lenient view, 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.

11. In view of above, the present appeal is **disposed of** by upholding the judgment of conviction dated 25.01.2011 passed by the learned Judge, Special Court, SBS Nagar, however the order of sentence dated 25.01.2011 is modified to the extent that the sentence of rigorous imprisonment for a period of 06 months imposed upon the appellant is reduced to the period of sentence already undergone by him. However, the amount of fine imposed upon the appellant shall remain the same.

(H.S.GREWAL)
JUDGE

14.05.2024***renu***

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No