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236 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-2593-SB-2012 (O&M)
Date of Decision: 12.03.2025

RANJIT SINGH

...APPELLANT

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Himanshu Puri, *Amicus Curiae*
for the appellant.

Mr. Nitesh Sharma, DAG Punjab.

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 05.05.2012 passed by learned Judge, Special Court, Sri Muktsar Sahib 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 three years	Rs. 15,000/-	Rigorous imprisonment for six months

2. Brief facts of the case are that on 19.07.2006, a police party headed by ASI Gurjit Singh with other police officials, on their scooters, in connection with patrolling duty, were present at Danewala crossing, then one pedestrian holding a polythene envelope in his right hand on G.T. road was seen coming from the Malout side. On the basis of suspicion, he was stopped by the Investigating Officer and then he tried to run, but he was apprehended with the help of other police officials and the Investigating Officer inquired his whereabouts. On the basis of suspicion, search of the person and his belongings

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appellant-acused, it was found to be containing opium, out of which 10 grams of opium was separated as sample and converted into a parcel. On weighment, the remaining opium came to be of 990 grams and it was converted into another parcel. Both the parcels were sealed. FIR(*supra*) was registered under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as 'NDPS Act').

3. Learned *Amicus Curiae* submits that there is non-compliance of Section 50 of NDPS Act as the alleged recovery has not been effected in presence of some Gazetted Officer or Magistrate. Further there is non compliance of Section 100(4) of Cr.P.C., which vitiates the entire investigation. The entire case set up by the prosecutuion hinges upon the deposition of the official witnesses and no independent witness was joined at the time of recovery. There are material discrepancies in the statements of prosecution witnesses, which render the case set up by the prosecution as doubtful. Lastly, he submits that the appellant has already undergone a period of more than 08 months of custody and is not involved in any other criminal case.

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 01 kilogram of opium, attracting the offence under Section 18 of NDPS Act, for which no minimum punishment has been prescribed. As per his custody certificate, he is not involved in any other case



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total sentence of 03 years, in the instant case. Since there is no minimum punishment prescribed under Section 18 of 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 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.



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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. However, the FIR (supra) was lodged on 19.07.2006 and the appellant has been suffering the agony of trial for last more than 18 years. Since his conviction, he has grown into a law-abiding citizen and desires to live a peaceful life.

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

(i) The judgment dated 05.05.2012 passed by the learned Judge, Special Court, Sri Muktsar Sahib is upheld.

(ii) The order of sentence dated 05.05.2012 is modified to the extent that the sentence of rigorous imprisonment for three years along with fine of Rs. 15,000/- 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. High Court Legal Services Committee is directed to pay remuneration to the *Amicus Curiae*, as per rules.

(HARPREET SINGH BRAR)
JUDGE

12.03.2025

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No