

2025:PHHC-016651



246 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-2627-SB-2012
Date of Decision: **04.02.2025**

Sukhdev Singh

...Appellant

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Dinesh Maurya, Advocate for
Mr. G.S. Sandhu, Advocate for the appellant.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This appeal has been preferred against the judgment of conviction dated 06.09.2012 and order on quantum of sentence dated 08.09.2012 passed by the learned Judge, Special Court, Karnal in case bearing FIR No.30 dated 31.01.2010 under Sections 15 & 27A of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Butana, District Karnal, vide which the appellant, has been convicted.

2. The appellant was sentenced as under:

Offence u/s	Sentence	Fine	In default of payment of fine
15(b) of the NDPS Act	To undergo RI for 02 years.	Rs.25,000/-	To undergo RI for a period of 06 months.

3. Brief facts of the case as narrated by PW6 ASI Ram Bhajan Verma, are that on 31.1.2010, while he was posted in Police Station, Butana, he alongwith other police officials was present at village Arjaheri, in connection

with patrolling and in the meantime a Maruti car No.HR-06C-0344 was seen coming from the side of Pipli, in which three persons i.e. two on the front seat and one on the back seat, were sitting and on seeing the police party, the driver of the car tried to take sudden turn but on suspicion, it was got stopped after giving signal; that one person sitting on the front seat and the other person sitting on the back seat fled away, after opening the windows of the car, but its driver was apprehended and on enquiry he disclosed his name as Sukhdev Singh (appellant) and his address; that on suspicion of having some contraband in the car, notice was served on the accused, apprising him his right to be searched before any Magistrate, Gazetted Officer and Revenue Officer, who vide his reply reposed confidence in him; notice and reply were signed by witnesses; that on opening car from rear seat two plastic bags were recovered and on its opening, poppy straw was found; that after arranging the weighing material, four samples of 100 gms. each were separated from the said bags and the remainder was found to be 14.800 Kgs each; that same were converted into separate parcels and sealed with the seal which was handed over to ASI Sher Singh; that case property, car were taken into possession and he sent ruqqa to the police station for registration of the case; prepared site plan & recorded statements of witnesses; that after completion of spot investigation, he produced the accused (appellant) alongwith case property, sample seal & witnesses in Police Station. After completion of all the usual investigation and on receipt of report FSL, challan was presented against the accused (appellant).

4. The appellant was convicted and sentenced vide judgment of conviction dated 06.09.2012 and order of sentence dated 08.09.2012 passed by the learned Judge, Special Court, Karnal.

5. Learned counsel for the appellant contends that he is not assailing

the impugned judgment of conviction dated 06.09.2012 on merits and restricts his prayer to modification of the order on quantum of sentence dated 08.09.2012 to that of the sentence already undergone by the appellant. Appellant has undergone a total period of 04 months and 19 days and custody after conviction. He further submits that appellant 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 31.01.2010 and the appellant has been suffering the agony of protracted trial for last about 15 years. Since his conviction, the appellant has grown into law-abiding citizen and desire to live a peaceful life. As per his custody certificate, he is not involved in any other case and has undergone total sentence of 04 months and 19 days out of total sentence of 02 years, in the instant case.

11. 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.

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

- (i) The judgment of conviction dated 06.09.2012 passed by the learned Judge, Special Court, Karnal is upheld, however, the order of sentence dated 08.09.2012 is

modified to the extent that the sentence of rigorous imprisonment for 02 years along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.

04.02.2025
Parveen kumar

(HARPREET SINGH BRAR)
JUDGE

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