

**CRA-S-2658-SB-2012 (O&M)****-1-**

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

208**CRA-S-2658-SB-2012 (O&M)
Date of Decision: 26.08.2025****GURBAKSH KAUR @ BAKSHO****... APPELLANT****VERSUS****STATE OF PUNJAB****... RESPONDENT****CORAM : HON'BLE MR. JUSTICE H.S.GREWAL**

Present:- Mr. Rahul Judge, Advocate for the appellant.

Mr. Rishabh Singla, AAG Punjab.

H.S. Grewal, J.(Oral)

1. Feeling aggrieved by the judgment of conviction and order of sentence dated 11.09.2012 passed by the learned Judge, Special Court, Shaheed Bhagat Singh Nagar in case FIR No.118 dated 25.12.2008 under Section 21 of Narcotics Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the Act'), registered at Police Station Rahon, the appellant has come up before this Court by filing the present appeal.

2 The case of the prosecution is that on 25.12.2008, the appellant was found to be in possession of 50 grams of smack. Pursuant thereto, vide order dated 11.09.2012 passed by the learned Judge, Special Court, Shaheed Bhagat Singh Nagar, the appellant was convicted and sentenced to undergo rigorous imprisonment for a period of 06 months and to pay a fine of



Rs. 2,000/- and further in default thereof, to undergo rigorous imprisonment for a period of one month.

3. Learned counsel appearing on behalf of the appellant submits that Mr. Rajiv Malhotra, appointed on 24.04.2025 is engaged in AG office, Haryana. He has filed his memo of appearance on behalf of the appellant in the Court today and the same is taken on record. He further contends that he is not assailing the impugned judgment of conviction dated 11.09.2012 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 she has already undergone a sentence of 07 days out of awarded sentence of 06 months. He further prays that the appellant is not involved in any other case and since FIR in question pertains to the year 2008, a lenient view may be taken while passing an order on quantum by this Court.

4. On the other hand, learned State counsel opposes the prayer of the appellant by way of filing of custody certificate and submits that the Courts below has passed a well reasoned judgment based on correct appreciation of evidence available on record. However, he does not refute the fact that the appellant is not involved in any other case.

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 50 grams of smack attracting the offence of Section 21 of the Act, for which no minimum punishment has been prescribed. Moreover, the FIR in the present



case pertains to the year 2008 and she has already faced the rigors of the trial for more than 27 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-Judge 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.

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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 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. As far as the question of quantum of sentence is concerned, it is worthwhile to note that the occurrence in this case pertains to the year 2008. The right to speedy and expeditious trial is one of the most valuable and cherished rights guaranteed under the Constitution. The appellant has already suffered the agony of protracted trial, spanning over a period of more than 27 years and has been in the corridors of the court for this prolonged period. She remained incarcerated for 07 days. She is living peacefully for last two and a half decades as no report contrary to that has been received. In view of the facts noted above, the case of the appellant deserves to be dealt with leniency. The appellant also deserves the benefit of the consistent view taken by this court in this regard. Thus, guided by the judicial pronouncements made by the Hon'ble Supreme Court in the cases of *Haripada Das Vs. State of West Bangal* reported in (1998) 9 SCC 678 and *Alister Anthony Pareira vs. [2023:RJ-JD:28174]* (5 of 5) [CRLR-755/2003] *State of Maharashtra* reported in 2012 2 SCC 648 and considering the facts and circumstances of the case, age of appellant, her status in the society and the fact that she faced financial hardship and had to go through mental agony, this court is of the view that ends of justice would be



met, if sentence imposed upon the appellant is reduced to the one already undergone by her.

11. Accordingly, judgment of conviction and order of sentence dated 11.09.2012 passed by the learned Judge, Special Court, Shaheed Bhagat Singh Nagar is affirmed but the quantum of sentence awarded by the Court concerned under Section 21 of the Act has been modified and reduced to the period of sentence she has undergone till date would be sufficient and justifiable to serve the interest of justice. The appellant is on bail. She need not surrender. Her bail bonds are discharged. However, the amount of fine is enhanced to Rs. 10,000/- over and above the fine already imposed vide impugned order of sentence dated 11.09.2012.

12. With these modifications, the present appeal is disposed of.

26.08.2025
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(H.S.GREWAL)
JUDGE

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