



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRA-S-2734-SB-2012 (O&M)
Date of decision: 13.11.2025

Jasbir Singh @ Goldy ...Appellant(s)

VERSUS

State of Punjab ...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Dr Deepa Singh, Advocate (Amicus Curiae)
for the appellant.

Ms. Savi Nagpal, AAG, Punjab

VINOD S. BHARDWAJ, J. (Oral)

1. The appellant has challenged the judgment of conviction and order of sentence dated 17.08.2012 passed by the learned Judge, Special Court, Patiala whereby he was convicted in case bearing FIR No.29 dated 30.01.2009 registered under Sections 25 and 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Tripuri, Patiala, and sentenced as under :-

Section	Sentence and Find	In default thereof
21 of the N.D.P.S. Act	RI for a period of 08 months and a fine of Rs.500/-.	Imprisonment for a period 01 month

2. The appeal pertains to the year 2012, however, as no one had entered appearance on behalf of the appellant on the last date of hearing, a specific order was passed by this Court to send intimation to the counsel for



the appellant about the date fixed. The office has reported that information about the date had been sent to the counsel through email, however, despite the same, no one has chosen to enter appearance. Further wait is unjustified. Accordingly, present case is being decided on merits by appointing an Amicus Curiae. Dr Deepa Singh , Advocate, who is present in the Court is appointed as Amicus Curiae to assist this Court on behalf of the appellant. Copy of the paper book was handed over to the Amicus Curiae by the learned State counsel during the first half of the day. She has gone through the same and had assisted this Court.

3. Briefly summarized, the facts of the present case are that Police party headed by ASI Balwan Singh was on a patrolling duty. When they were present at Kohli Sweets Shop, Tripuri, at about 5.40 p.m., one Bullet motorcycle bearing registration No.HNW-6523 driven by a clean shaved person came from the side of Gurudwara Dukh Nivaran Sahib, Patiala. On seeing the police party, the said person tried to turn his motorcycle back. On suspicion, ASI Balwan Singh, with the help of his companions, intercepted the said person and apprehended him for questioning. On inquiry, he disclosed his name as Jasbir Singh (appellant herein). ASI Balwan Singh disclosed his identity to him and made the statutory offer of search. On being apprised about suspicion about carrying certain narcotic substance and necessity for search, the same was carried out by the Officer with his consent, whereupon a recovery of 34 grams of smack was effected from the appellant. Two samples of 2 grams each were separated and the remaining smack weighed at 30 grams was sealed. Specimen seal was also prepared.



The investigation was conducted at the spot and *ruqa* was sent to the Police Station for registration of the FIR against the accused/appellant.

4. On completion of investigation and filing of the final report under Section 173 Cr. P.C., the charge was framed. The prosecution led its evidence, on conclusion whereof, the statement under Section 313 Cr.P.C was recorded. The appellant denied the allegations. No defence evidence was however led by the appellant/accused.

5. Parties were heard at length and upon consideration thereof, vide judgment dated 17.08.2012, the appellant was convicted for commission of offence under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985. Vide order of sentence of the same date, the appellant was ordered to undergo RI for a period of 08 months with a fine of Rs.500/- and in default thereof, to undergo further imprisonment of 01 month. Aggrieved thereof, the instant appeal had been filed.

6. Counsel appearing on behalf of the appellant has vehemently argued that provisions of Section 42 and 50 of the Narcotic Drugs and Psychotropic Substances Act, 1985 has not been complied with, as secret information was never reduced in writing and dispatched to the higher officers. Moreover, the offer given to the appellant was not proper and the search was conducted by a non-authorised person. She further contends that there are material discrepancies in the testimony of prosecution witnesses and that the appellant has no other criminal antecedents. It is further contended that the motorcycle in question does not belong to the appellant and as per the prosecution witness PW-4/Tirath Singh, Clerk, DTO Office,



Sangrur, the said motorcycle is registered in the name of Paramjit Singh son of Mohinder Singh resident of Allowal. The circumstances in which the vehicle in question came in possession of the appellant herein have also not been established.

7. State counsel on the other hand contends that the case against the appellant has been fully established. The prosecution examined as many as 7 witnesses and adduced documentary evidence. All the mandatory provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985 were duly complied with. It is submitted that even though the motorcycle in question was in the name of Paramjit Singh, however, the registered owner appeared as PW-6 and specifically deposed that the said motorcycle had been sold to the appellant herein. It is also submitted that the appellant had been apprehended at the spot and the recovery effected was from his possession, hence, there was no occasion of any false implication. Besides, there is no ill-will or false motive on part of any person to indict the appellant in the false case. She contends that the conviction is thus based upon proper appreciation of the evidence that had been adduced.

8. Counsel for the appellant at this juncture contends that in the event this Court does not find sufficient grounds for setting aside the judgment passed by the Judge, Special Court, Patiala, the submission with respect to the sentence may be considered. It is contended by her that the Judge, Special Court, Patiala had awarded a sentence of RI for a period of 08 months. The appellant has undergone an actual custody of 03 months and 14 days and is not involved in any other case. It is further contended that the



incident in question pertains to the year 2009 and already a period of more than 16 years has elapsed. The appellant has already faced the agony of a protracted criminal prosecution. Besides, there is no subsequent involvement of the appellant in any other criminal case as well.

9. Learned State counsel does not dispute the aforesaid aspects.

10. I have heard the learned counsel for the respective parties and have gone through the documents as well as the judgment of the Court.

11. In so far as the argument about recording of secret information in writing is concerned, the said argument is devoid of merits since it is a case of chance recovery and interception was not based upon any secret information.

12. Adverting to the argument as to whether the appellant has been established to be the rider of the vehicle is concerned, the said aspect is without any merit. Firstly, the registered owner of the motorcycle appeared as PW-6 and deposed about the vehicle having been sold to the appellant. The affidavit in support of the sale was also adduced on record. The ownership was thus established and the appellant was apprehended at the spot. The ownership over the motorcycle was thus inconsequential and is not fundamental to the fastening of the criminal liability.

13. The arguments are thus devoid of merit and are liable to be rejected.

14. The case is thus not made out any case for interfering with the finding of conviction recorded by the Judge, Special Court, Patiala. The appeal to the extent of the judgment of conviction is accordingly dismissed.



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15. The same thus leads to the next issue as to whether sufficient mitigating circumstances have been made out by the amicus for the appellant for reducing of the sentence.

16. The following aspects attain significance for consideration of the said prayer:-

- (i) The incident in question pertains to the year 2009 and a period of more than 16 years has already elapsed since the commission of the offence and the appellant has faced the agony of criminal prosecution for that period.
- (ii) The appellant was not involved in any other criminal offence and even after grant of bail in the present case, there is no involvement of the appellant in any other criminal case.
- (iii) The appellant has already undergone an actual sentence of 03 months 14 days out of the total sentence of 08 months.
- (iv) The appellant would currently be in advance stages of his life and career. Detention of the appellant for undergoing the remaining sentence would invariably have serious implications on not only his life but also that of his family as well. It would thus upset the entire life of the appellant.
- (v) The quantity of contraband recovered from the appellant falls under the category of 'small quantity' and



seemingly was not for the purposes of further trade and might have been used for self consumption.

- (vi) Seemingly, the appellant has already overcome the addiction as may be inferred from the fact that he has not involved in any other case during the entire period of more than 16 years.

17. The object of law being not only retributive but also reformative, the purpose would be defeated in case some benefit is not extended to an accused who has shown reformative tendencies .

18. On the issue of reduction of sentence to the period already undergone, the judgment in ***S.K. Sakkar @ Mannan vs. State of West Bengal, (2021) 4 SCC 483***, is being referred to wherein the accused was convicted under Section 20 of the Act and Hon'ble Apex Court reduced the sentence of five years to 2 years, 4 months and 16 days, by considering that the occurrence took place in 1997 and he was not a habitual offender, rather a first-time convict.

19. Hon'ble Supreme Court in ***Satish @ Sabbe vs. State of U.P., (2021) 14 SCC 580***, had observed that, "*Whilst it is undoubtedly true that society has a right to lead a peaceful and fearless life, without free roaming criminals creating havoc in the lives of ordinary peace loving citizens. But equally strong is the foundation of reformative theory which propounds that a civilised society cannot be achieved only through punitive attitudes and vindictiveness; and that instead public harmony, brotherhood and mutual acceptability ought to be fostered. Thus, first time offenders ought to be*



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liberally accorded a chance to repent their past and look forward to a bright future”. [Maru Ram v. Union of India, (1981) 1 SCC 107 : 1981 SCC (Cri) 112]”.

20. The circumstances noticed above and the position in law referred to above support the case of the appellant for reduction in sentence and noticing that already a period of more than 03 months out of the total 08 months has already been undergone by the appellant.

21. Considering that the appellant has already suffered the agony of a long protracted trial, successfully warded off his crime proneness-an evident learning of a lesson; his socio-economic circumstances and detention period, this Court finds sufficient mitigating factors. Thus, ends of justice would be served by reducing his sentence to the period already undergone. However, the fine imposed by the Trial Court is kept intact alongwith the punishment in default thereof.

22. In view of the above, the present appeal is ***partly allowed***. While upholding the conviction, the order of sentence is modified and the order dated 17.08.2012 is reduced to the period undergone and the sentence of fine and custody in default thereof is maintained.

(VINOD S. BHARDWAJ)
JUDGE

13.11.2025
Mangal Singh

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