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

**CRA-S-439-2025 (O&M)
Date of decision: 10.02.2025**

Baldev Singh

... Appellant

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Narinder S. Lucky Advocate
for the appellant.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. Present appeal has been preferred against the judgment of conviction dated 14.01.2025 and the order of sentence of even date passed by learned Judge, Special Court, Barnala, vide which the appellant was convicted under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') in FIR No.63 dated 03.05.2018 under Sections 22 & 29 of NDPS Act, registered at Police Station Barnala and was sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.15,000/- along with default mechanism.

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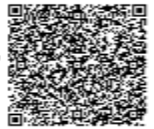


2. Brief facts of the case are that FIR (*supra*) was registered at the instance of ASI Jasvir Singh on the allegations that on 03.05.2018, he along with other police officials, was on patrolling and checking of suspicious persons and was moving from Village Bakhatgarh towards Village Malian. At about 04.00 p.m, when they reached near Government High School, Village Bakhatgarh, a person was seen coming on foot on a kacha path (*dirt path*) from the side of Village Malian and on seeing the police party, he got unnerved and tried to turn towards the school. At this, the police party nabbed the person on the basis of suspicion and upon enquiry, he disclosed his name as Baldev Singh. The Investigating Officer introduced himself to the appellant as well as apprised him of his statutory right under Section 50 of NDPS Act. However, the appellant reposed confidence in him. Thereafter, the Investigating Officer searched the kurta pajama worn by the appellant and recovered a polythene bag from the right pocket of his kurta. The Investigating Officer recovered 12 strips of intoxicant tablets, labelled Alprazolam, each strip containing 10 tablets, 120 tablets in total from the polythene bag and converted the same into a parcel and sealed it with his seal bearing seal impression 'JS'. A sample seal chit was prepared separately. The seal after use was handed over to HC Gurdeep Singh. Thereafter, the Investigating Officer vide seizure memo took the case property parcel and the sample seal chit into police possession. The Investigating Officer drew a rough site plan of the site of recovery, with

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correct marginal notes. Personal search of the appellant was conducted vide personal search memo. Thereafter, the Investigating Officer scribed a ruqa and sent it through Constable Harjinder Singh to Police Station Barnala for the purpose of registration of an FIR under Section 22 of NDPS Act against the appellant, on the basis of which, an FIR under Section 22 of NDPS Act was registered. The Investigating Officer, in the course of the ensuing investigation, recorded the witnesses' statements under Section 161 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') and arrested the appellant. After evidence came on record against him during the investigation, one Lakhvir Singh was nominated as an accused and the offence punishable under Section 29 of NDPS Act was added. Thereafter, the Investigating Officer recorded the witnesses' statements under Section 161 of Cr.P.C. and arrested co-accused Lakhvir Singh and after conducting his interrogation on 04.05.2018, he suffered a disclosure statement under Section 27 of the Indian Evidence Act, 1872 and got a polythene bag containing 44 strips of intoxicant tablets, labelled CLAVIDOL-100 SR, each strip containing 50 tablets, 2200 tablets in total, recovered from the disclosed place. The Investigating Officer converted the recovered polythene bag into a parcel and sealed it with his seal bearing seal impression 'JS'. A sample seal chit was prepared separately. The seal after use was handed over to HC Gurdeep Singh. The Investigating Officer vide a seizure memo took the case property parcel and the sample seal



chit into police possession. The Investigating Officer, in the course of the ensuing investigation, produced the appellant, co-accused Lakhvir Singh and the case property parcels before the Court and sent the representative samples parcels to the Regional Testing Forensic Science Laboratory, Bathinda, Punjab, for chemical analysis purpose. After receiving FSL report and on completion of the investigation, final report under Section 173(2) of Cr.P.C. was presented before the jurisdictional Court.

3. After considering the final report and hearing the prosecution and the accused, charges under Sections 22 & 29 of NDPS Act were framed against the appellant, to which he pleaded not guilty and claimed trial. The prosecution as well as accused led their respective evidence. Thereafter, learned trial Court, vide judgment of conviction dated 14.01.2025, convicted the appellant under Section 22 of NDPS Act and vide order of sentence of even date, sentenced him to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.15,000/- along with default mechanism.

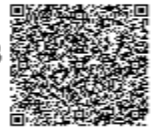
4. Learned counsel for the appellant contends that he is not assailing the impugned judgment of conviction dated 14.01.2025 passed by learned trial Court on merits and restricts his prayer to modification of the order of quantum of sentence, to that of the sentence already undergone by the appellant, as he has already undergone a period of 02 months and 17 days and is not involved in any other criminal activity.



5. *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 and as such, he does not deserve any leniency.

6. I have heard learned counsel for the parties and perused the record of the case with their able assistance.

7. In ***Deo Narain Mandal Vs. 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, 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. Further, a two-Judge Bench of the Hon'ble Supreme Court in ***Ravada Sasikala Vs. 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 conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

8. A perusal of the judgment of conviction passed by learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. 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.

9. The FIR in the present case was lodged on 03.05.2018 and the appellant has been suffering the agony of trial since the last about 07 years. Since his conviction, the appellant has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate dated 09.02.2025, the appellant is not involved in any other case and has undergone actual sentence of 02 months and 17 days, out of total sentence of six months in the instant case.

10. 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.

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11. Resultantly, the present appeal is disposed of in the following terms:-

- (i) The judgment of conviction dated 14.01.2025 passed by learned trial Court is upheld, however, the order of sentence of even date is modified to the extent that the sentence of rigorous imprisonment of six months awarded to the appellant is reduced to the period of sentence already undergone by him.
- (ii) The appellant is directed to deposit the fine amount of Rs.15,000/- imposed upon him by learned trial Court with it within one month from the date of receipt of certified copy of this order, if not deposited, failing which, he has to undergo the sentence of one month awarded under default mechanism.

12. All the pending miscellaneous application(s), if any, shall stand disposed of.

13. The appellant be released forthwith, if he is not required in any other case.

[HARPREET SINGH BRAR]
JUDGE

10.02.2025
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No