

2025.PHHC:173765



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

784

CRA-S-601-SB-2017 (O&M)

Date of decision: 11.12.2025

Rajesh Kumar

....Appellant

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Ms. Meena Bansal, Legal Aid Counsel, for the appellant.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J. (Oral)

1. Challenge in the present appeal is to the judgment/order dated 26.10.2016, passed by the learned Special Court, Ludhiana, whereby the appellant was convicted and sentenced to undergo rigorous imprisonment for 10 years alongwith fine of Rs.1,00,000/- and in default of payment of the same, to further undergo rigorous imprisonment for two years, for the offence punishable under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act').

2. Briefly, the facts are that on 26.05.2014, when ASI Swaran Singh alongwith other police officials was present at Tibba Road near Gopal Nagar Chowk, for patrolling duty, apprehended the accused in possession of 250 grams of intoxicant powder. The requisite samples were drawn and sealed. *Ruqa* was sent, on the basis of which, an FIR was registered.

3. After the investigation concluded, the police submitted the final

report in terms of Section 173 Cr.P.C. The Court, upon finding a prima facie case, proceeded to frame charge under Section 22 of the Act. The accused, however, pleaded not guilty and insisted on trial.

4. Prosecution in support of its case examined 5 witnesses after which the statement of the accused was recorded under Section 313 Cr.P.C., wherein the accused denied incriminating evidence, while pleading innocence and alleged false implication.

5. The learned trial Court after hearing the learned counsel for the parties, convicted and sentenced the accused-appellant as noticed above.

6. Hence appellant in appeal.

7. Learned counsel submits that the appellant had already undergone the substantive sentence, whereafter, even completed 1 year, 6 months and 10 days out of 2 years, for default of non-payment of fine. He does not press the present appeal on merits, however, confines his prayer for reduction of sentence to the period of 1 year, 6 months and 10 days, already undergone by the appellant for non-payment of fine, on the grounds that he is a first offender; only bread earner of the family; belongs to the poor strata of society; has children of marriageable age; not involved in any other case and has been facing the agony of protracted trial since 2014.

8. Per contra, learned State counsel submits that the trial Court after evaluating the evidence has rightly convicted the appellant and the sentence awarded to him cannot be said to be excessive, therefore, he prays for the dismissal of the present appeal. He, however, was unable to deny that appellant, that he had undergone the substantive sentence; undergoing the default sentence for non-payment of fine and during pendency, committed no similar offence.

9. Counsel on either side heard and the record perused.

10. Evidently, ASI Swaran Singh and PW4-HC Mohinder Singh had deposed that the accused appellant was apprehended and found to be in conscious possession of the alleged contraband. As per chemical examiner report, contents of the contraband were opined to be diphenoxylate hydrochloride salt 3.04%. There is no scope for interference in the findings recorded by the trial Court as the recovery has been proved on credible official testimony, and immaterial discrepancies due to lapse of time. As such, his conviction is upheld.

11. In **Satish vs. State of U.P.**, (2021) 14 SCC 580, Hon'ble the Supreme Court 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 reformatory 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 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]".

12. Likewise, in **Naresh Kumar vs. State of Haryana**, CRA-S-796-SB-2005, decided on 24.02.2023, the sentence of the appellant i.e. 3 years and 6 months, convicted under Section 15 of the Act, was modified to the period undergone i.e. 8 months and 25 days already, by holding that no useful purpose will be served by sending him to jail after 22 years from the date of incident, in view of the fact that he was only about 28 years old at that time.

13. Furthermore, in **Shahejadh Khan Mahebub Khan Pathan vs. State of Gujarat**, (2013) 1 Supreme Court Cases 570, held thus:-

"16. For the reasons stated above, both the appeals are partly allowed.

The conviction recorded is confirmed and sentence imposed upon the appellants to undergo RI for 15 years is modified to 10 years. The order of payment of fine of Rs.1.5 lakhs each is also upheld but the order that in default of payment of fine, the appellants shall undergo RI for 3 years is reduced to RI for 6 months. Since the appellants have already served nearly 12 years in jail, we are of the view that as per the modified period of sentence in respect of default in payment of fine, there is no need for them to continue in prison. The appellants shall be set at liberty forthwith unless they are required in any other offence. It is further made clear that for any reasons, if the appellants have not completed the modified period of sentence, they will be released after the period indicated hereinabove is over.”

14. Hon’ble the Supreme Court in **Shanti Lal vs. State of MP**, Appeal (Crl.) No.1375 of 2007, decided on 08.10.2007, had reduced default sentence to six months from 3 years keeping in view the mitigating circumstances of the appellant.

15. Whilst adopting a sympathetic approach; the appellant having suffered the vagaries of trial since long; successfully warded off his crime-proneness-an evident learning of a lesson; his socio-economic circumstances; already undergone the substantive sentence, this Court finds mitigating factors apparent. Thus, it would serve the ends of justice to reduce his sentence for non-payment of fine, to the period already undergone.

16. The order of sentence dated 26.10.2016 is modified to the aforesaid extent and as such, the present appeal stands partly allowed.

(AMAN CHAUDHARY)
JUDGE

11.12.2025

ashok

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