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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1450-2007

Date of decision: 07.05.2025

Nirbhai Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rahul Rana, Advocate (*Amicus Curiae*)
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition is preferred against the judgment dated 03.08.2007 passed by the learned Additional Sessions Judge, Fast Track Court, Fatehgarh Sahib, vide which judgment of conviction and order of sentence dated 01.10.2005 passed by the learned Chief Judicial Magistrate, Fatehgarh Sahib, in FIR No.73 dated 11.06.2002 registered under Sections 353/186/224 of IPC, registered at Police Station Bassi Pathana, have been affirmed.

2. The petitioner was convicted and sentenced as mentioned below:

Offence	Sentence
Section 186 of IPC	Rigorous imprisonment for a period of 03 months.
Section 224 of IPC	Rigorous imprisonment for a period of 01 year and to pay fine of Rs.500/- and in default rigorous imprisonment of 15 days.

Both the sentences were ordered to run concurrently.

3. After assessing the material available on record, the learned trial Court convicted the petitioner vide judgment dated 01.10.2005. Aggrieved by

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the same, the petitioner preferred an appeal before the learned lower Appellate Court which has been dismissed vide judgment dated 03.08.2007.

4. Learned *amicus curiae* for the petitioner *inter alia* contends that the petitioner has been convicted on the sole testimony of PW-2 HC Satpal Singh. Further, there is no independent corroboration of the testimonies of various witnesses. The investigating officer has failed to join any independent witness and it would be unfair to convict the petitioner only on the basis of statement of the official witnesses. Further, there are several discrepancies and shortcomings in the evidence produced by the prosecution which creates serious doubt on the case set up by the prosecution. Lastly, he submits that the petitioner has already undergone a total period of 03 months and 26 days in custody.

5. *Per contra*, learned State counsel opposes the prayer of the petitioner as the learned Courts below have passed well-reasoned judgments based on correct appreciation of evidence available on record. He further submits that the petitioner is involved in one more case and as such, he does not deserve any leniency. However, he could not controvert the fact that the petitioner is on bail in the said case.

6. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the petitioner was convicted under Sections 186/224 of IPC for which no minimum punishment has been prescribed. As per his custody certificate, petitioner has already undergone a period of 03 months and 26 days in custody out of total sentence of 01 year, in the instant case. Since there is no minimum punishment prescribed under Sections 186/224 of IPC, this Court is of the opinion that it would be in the

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interest of justice, if the sentence awarded to the petitioner is reduced to the period already undergone by him.

7. Further, the primary consideration in matters where the petitioner/appellant is involved in other NDPS cases ought to be the severity of the offence. Moreover, Co-ordinate benches of this Court have deemed it appropriate to reduce the sentence imposed upon the accused to be the custody already undergone by them, in spite of their involvement in other cases pertaining to the NDPS Act in *Pritam Singh @ Preeti vs. State of Punjab* in **CRA-S-1769-SB-2010** decided on 03.04.2025, *Ram Lal vs. State of Haryana* in **CRA-S-986-SB-2005** decided on 11.05.2018, *Raj Pal vs. State of Haryana* in **CRA-S-68-SB-2005** decided on 28.04.2023, *Raj Pal vs. State of Haryana* in **CRA-S-34-SB-2005** decided on 28.04.2023 and *Gurmail Singh and others vs. State of Punjab* in **CRA-S-1976-SB-2007** decided on 28.03.2025.

8. In *Deo Narain Mandal vs. State of U.P. (2004) 7 SCC 257*, 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.

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9. Further, 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 the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

10. 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, the FIR (supra) was lodged on 11.06.2002 and the petitioner has been suffering the agony of trial for last more than 22 years. Since his conviction, he has grown into a law-abiding citizen and desires to live a peaceful life.

11. Therefore, in view of the discussion above, the present revision petition is disposed of in the following terms:-

(i) The judgment dated 03.08.2007 passed by the learned Additional Sessions Judge, Fast Track Court, Fatehgarh Sahib, is upheld and sentence of 01 year and fine awarded by the learned trial Court is reduced to the period of sentence already undergone by the petitioner.

12. Pending miscellaneous application(s), if any, shall also stand disposed of.

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13. The High Court Legal Services Authority is directed to pay remuneration to the learned *Amicus Curiae*/Legal Aid Counsel, as per rules.

(HARPREET SINGH BRAR)
JUDGE

07.05.2025*Neha*

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