

CRA-AS-12-2021(O&M)

-1-

244

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

CRA-AS-12-2021(O&M)

Date of Decision: 05.03.2025

STATE OF U.T. CHANDIGARH

...Appellant

V/S

RAKESH

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Charanjit Singh Bakshi, Addl. PP UT Chandigarh
for the appellant.

HARPREET SINGH BRAR J. (Oral)

1. The present appeal is preferred against the judgment dated 26.02.2020 passed by learned Judge, Special Court, Chandigarh, whereby the accused-respondent has been convicted under Section 20 of NDPS Act and vide order on quantum of sentence of even date, he has been sentenced to undergo rigorous imprisonment for a period of only 06 months and fine of Rs. 10,000/- has been imposed upon him with default mechanism.

2. Succinctly, the facts of case are that on 07.05.2018 ASI Baljit Singh along with Constable Narinder, Constable Parveen Kumar, Constable Vinod Kumar and Constable Jasbir Singh were on patrolling duty in the area of Sector 38, Chandigarh, to detect the cases of snatching and theft. Naka was laid on the dividing road Sector 38 A-B Chandigarh. At about 4.30 pm, accused-respondent was seen coming from the side of Main Road, Sector 25/38, Chandigarh on foot carrying one red colour carry bag in his right hand. On seeing the police party, he turned back and started walking briskly. The police party put in suspicion that the respondent might be carrying some stolen articles and on that suspicion, he was chased. When



CRA-AS-12-2021(O&M)

-2-

the said person tried to throw the bag he was apprehended along with the carry bag. When the bag was opened, it was found containing one transparent polythene and when the said polythene was opened it was found containing dry green colour leafs i.e. Ganja. The respondent failed to produce any permit or license to carry and possessing the Ganja. He tried to join independent witness but nobody was ready to join the investigation and left the place by giving one excuse or another. The respondent disclosed his name as Rakesh son of Dholu Ram. The recovered contraband was weighed in the electrical scale and the same was found to be 2 kg including transparent polythene. Thereafter, the recovered contraband was put in the same polythene bag. Thereafter, the case property was taken into police possession vide separate seizure memo.

3. Learned Judge, Special Court, Chandigarh vide judgment of conviction dated 26.02.2020 convicted the accused-respondent under Section 20 of NDPS Act and vide order on quantum of sentence of even date, awarded him rigorous imprisonment for a period of 06 months and fine of Rs. 10,000/- was imposed with default mechanism.

4. Learned State counsel for the appellant-State contends that the learned trial Court fell into error by awarding a very meagre sentence upon the respondent as the same is based on untenable grounds. The charge against the respondent stands duly proven by all the prosecution witnesses and as such, the learned trial Court ought not to have awarded such a small sentence to the respondent.

5. Having heard the learned State counsel and after perusing the record of the case, this Court is of the considered opinion that the judgment



CRA-AS-12-2021(O&M)

-3-

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 perusal of record further indicates that learned trial Court found that accused-respondent was of very young age and considered to be still in the impressionable formative years of his life. Moreover, the contraband recovered from the conscious possession of the petitioner was found to be marginally higher than the small quantity. The respondent was first time offender and had no criminal background. Thus, he was awarded the minimum sentence provided under the Act.

6. The theory of reformation and rehabilitation aims at separating the criminal from the crime and compels us to look beyond the one fateful act committed by him. In a civilised society like ours, it would be truly unfortunate if an offender is not given the opportunity to realise and fully fathom his mistake and channel that awareness into making fruitful contributions in society.

7. In *Deo Narain Mandal vs. State of UP (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

CRA-AS-12-2021(O&M)

-4-

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, 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 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.

9. In view of the discussion above, this Court does not find any reason to interfere with the order of sentence dated 26.02.2020 passed by learned Judge, Special Court, Chandigarh. Consequently, the present appeal is dismissed.

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

(HARPREET SINGH BRAR)
JUDGE

05.03.2025
Ajay Goswami

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*