



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

247

CRR-1230-2015 (O&M)
Date of decision: 28.08.2025

Gurpinder Singh ...Petitioner
VERSUS
State through District Drugs Inspector, Ferozepur ...Respondent

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

Present :- Mr. Kanwar Pal Singh Gill, Advocate and
Mr. Dheeraj Chawla, Advocate for the petitioner(s).

Mr. I.P.S. Sabharwal, DAG Punjab.

VINOD S. BHARDWAJ, J. (Oral)

1. The instant criminal revision petition has been preferred against the judgment dated 04.08.2011 passed by Chief Judicial Magistrate, Ferozepur wherein the petitioner has been convicted for offences punishable under section 27(b) (ii) and section 28 of Drugs and Cosmetics Act, 1940 as well as against the judgment dated 21.02.2015 passed by Additional Sessions Judge, Ferozepur vide which appeal filed by the petitioner has been dismissed. The petitioner has been sentenced as under:-

S. no.	Sections	Punishment
1.	27(b)(ii) of Drugs and Cosmetics Act	Rigorous imprisonment for 2 years and 6 months with fine of Rs10,000/- and in default of payment of fine the convict will undergo further rigorous imprisonment for 6 months.



2.	28 of Drugs and Cosmetics Act	Rigorous imprisonment for one year with fine of Rs. 1000/- and in default of payment of fine, the convict will undergo further rigorous imprisonment for three months.
----	-------------------------------	--

Both the substantive sentences were ordered to run concurrently.

2. Succinctly, facts of the present case are that on 05.07.2005 clinic/premises of accused Gurbinder Singh (petitioner herein) was inspected by Sh. Gurbinder Singh, the then Drugs Inspector, Ferozepur where petitioner was present as Incharge-cum-proprietor of the said shop/premises and during the inspection, he was found stocking 13 types of allopathic drugs for sale and distribution. He was asked to produce valid RMP certificates or valid drugs license which authorized him to stock allopathic drugs for sale and distribution. The petitioner failed to produce any license for keeping these drugs in his possession nor he possessed any valid registration certificate as a Registered Medical Practitioner under the provisions of this Act and rules framed thereunder. After completing all the formalities, complaint under section 18(c) read with section 27(b)(ii) and under section 18A read with section 28 of the Act was filed by the Drugs Inspector. The petitioner was tried and convicted by the Ld. Chief Judicial Magistrate. The sentence was also upheld by Ld. Addnl Sessions Judge in an appeal filed by the petitioner.

3. Since the learned counsel for the petitioner has confined his prayer only to the quantum of sentence, hence the factual aspects are not



being delved into at this stage. Learned Counsel submits that the incident occurred in 2005 and petitioner has suffered a protracted trial of almost 20 years. It is further stated that at the time of the alleged incident, the petitioner was 26 of age and thus, the prime of his life is lost facing such proceedings. Therefore he prays that the sentence imposed upon the petitioner may be reduced to the one already undergone by him. To support his contention, Counsel places reliance on the judgment of this court in the matter of ***Hem Raj v State of Punjab, 2008(3) RCR (Criminal) 475*** where sentence was reduced to already undergone in view of mitigating circumstances.

4. On the other hand, the learned State counsel has, while controverting the aforesaid submissions, argued that the guilt of the petitioner stands proved by way of cogent and convincing evidence. Further, it is imperative that harsh punishment be imposed upon the criminals so that a deterrent effect is created in the society.

5. I have heard the Learned Counsel appearing on behalf of the parties and have gone through the case record.

6. The Hon'ble Supreme Court has laid down certain principles to govern the Courts in the matter of sentencing. Reference in this regard is made to the judgment of the Hon'ble Supreme Court in the matter of ***State of Punjab Vs. Prem Sagar & Ors*** reported as ***(2008) 7 SCC 550***. The relevant paragraphs are extracted as follows:-

“5. *Whether the Court while awarding a sentence would take recourse to the principle of deterrence or reform or*



invoke the doctrine of proportionality, would no doubt depend upon the facts and circumstances of each case. While doing so, however, the nature of the offence said to have been committed by the accused plays an important role. The offences which affect public health must be dealt with severely. For the said purpose, the courts must notice the object for enacting Article 47 of the Constitution of India.

6. *There are certain offences which touch our social fabric. We must remind ourselves that even while introducing the doctrine of plea bargaining in the Code of Criminal Procedure, certain types of offences had been kept out of the purview thereof. While imposing sentences, the said principles should be borne in mind.*
7. *A sentence is a judgment on conviction of a crime. It is resorted to after a person is convicted of the offence. It is the ultimate goal of any justice-delivery system. Parliament, however, in providing for a hearing on sentence, as would appear from sub-section (2) of Section 235, sub-section (2) of Section 248, Section 325 as also Sections 360 and 361 of the Code of Criminal Procedure, has laid down certain principles. The said provisions lay down the principle that the court in*



awarding the sentence must take into consideration a large number of relevant factors; sociological backdrop of the accused being one of them.

8. *Although a wide discretion has been conferred upon the court, the same must be exercised judiciously. It would depend upon the circumstances in which the crime has been committed and his mental state. Age of the accused is also relevant.*
9. *What would be the effect of the sentencing on the society is a question which has been left unanswered by the legislature. The superior courts have come across a large number of cases which go to show anomalies as regards the policy of sentencing. Whereas the quantum of punishment for commission of a similar type of offence varies from minimum to maximum, even where same sentence is imposed, the principles applied are found to be different. Similar discrepancies have been noticed in regard to imposition of fine.*
10. *In Dhananjoy Chatterjee v. State of W.B. [(1994) 2 SCC 220: 1994 SCC (Cri) 358] this Court held : (SCC p. 239, para 15)*

“15. ... Imposition of appropriate punishment is the manner in which the courts respond to the society's cry for justice against the criminals. Justice demands that



courts should impose punishment befitting the crime so that the courts reflect public abhorrence of the crime.”

xxxxxx

12. *In a recent decision in Shailesh Jasvantbhai v. State of Gujarat [(2006) 2 SCC 359 : (2006) 1 SCC (Cri) 499] this Court opined : (SCC pp. 361-62, para 7)*

“7. The law regulates social interests, arbitrates conflicting claims and demands. Security of persons and property of the people is an essential function of the State. It could be achieved through instrumentality of criminal law. Undoubtedly, there is a cross-cultural conflict where living law must find answer to the new challenges and the courts are required to mould the sentencing system to meet the challenges. The contagion of lawlessness would undermine social order and lay it in ruins. Protection of society and stamping out criminal proclivity must be the object of law which must be achieved by imposing appropriate sentence. Therefore, law as a cornerstone of the edifice of ‘order’ should meet the challenges confronting the society. Friedman in his Law in Changing Society stated that: ‘State of criminal law continues to be—as it should be—a decisive reflection of social consciousness of society.’ Therefore, in operating the sentencing system, law should adopt the



corrective machinery or deterrence based on factual matrix. By deft modulation, sentencing process be stern where it should be, and tempered with mercy where it warrants to be. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration.”

Relying upon the decision of this Court in Sevaka Perumal v. State of T.N. [(1991) 3 SCC 471 : 1991 SCC (Cri) 724] this Court furthermore held that it was the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed, etc.

xxxxx

18. *Don M. Gottfredson in his essay on “Sentencing Guidelines” in Sentencing by Hyman Gross and Andrew von Hirsch opines:*

“It is a common claim in the literature of criminal justice and indeed in the popular press that there is considerable ‘disparity’ in sentencing. The word ‘disparity’ has become a prerogative and the concept of ‘sentencing



disparity' now carries with it the connotation of biased or insidious practices on the part of the judges. This is unfortunate in that much otherwise valid criticism has failed to separate justified variation from the unjustified variation referred to as disparity. The phrase 'unwarranted disparity' may be preferred; not all sentencing variation should be considered unwarranted or disparate. Much of it properly reflects varying degrees of seriousness in the offense and/or varying characteristics of the offender. Dispositional variation that is based upon permissible, rationally relevant and understandably distinctive characteristics of the offender and of the offense may be wholly justified, beneficial and proper, so long as the variable qualities are carefully monitored for consistency and desirability over time. Moreover, since no two offenses or offenders are identical, the labeling of variation as disparity necessarily involves a value judgment, that is, disparity to one person may be simply justified variation to another. It is only when such variation takes the form of differing sentences for similar offenders committing similar offenses that it can be considered disparate."

(emphasis supplied)

The learned author further opines:



“In many jurisdictions, judicial discretion is nearly unlimited as to whether or not to incarcerate an individual; and bound only by statutory maxima, leaving a broad range of discretion, as to the length of sentence.”

19. Kevin R. Reitz in *Encyclopædia of Crime and Justice*, 2nd Edn., “Sentencing Guidelines” states:

“All guideline jurisdictions have found it necessary to create rules that identify the factual issues at sentencing that must be resolved under the guidelines, those that are potentially relevant to a sentencing decision, and those viewed as forbidden considerations that may not be taken into account by sentencing courts. One heated controversy, addressed differently across jurisdictions, is whether the guideline sentence should be based exclusively on crimes for which offenders have been convicted (conviction offenses), or whether a guideline sentence should also reflect additional alleged criminal conduct for which formal convictions have not been obtained (non-conviction offenses).

Another difficult issue of fact finding at sentence for guideline designers has been the degree to which trial Judges should be permitted to consider the personal characteristics of offenders as mitigating factors when



imposing sentence. For example : Is the defendant a single parent with young children at home? Is the defendant a drug addict but a good candidate for drug treatment? Has the defendant struggled to overcome conditions of economic, social or educational deprivation prior to the offense? Was the defendant's criminal behavior explicable in part by youth, inexperience, or an unformed ability to resist peer pressure? Most guideline States, once again including all jurisdictions with voluntary guidelines, allow trial court's latitude to sentence outside of the guideline ranges based on the Judge's assessment of such offender characteristics. Some States, fearing that race or class disparities might be exacerbated by unguided consideration of such factors, have placed limits on the list of eligible concerns. [However, such factors may indirectly affect the sentence, since Judges are permitted to base departures on the offender's particular 'amenability' to probation (Frase, 1997).]"

20. *Andrew von Hirsch and Nils Jareborg have divided the process of determining sentence into stages of determining proportionality while determining a sentence, namely:*



1. *What interests are violated or threatened by the standard case of the crime—physical integrity, material support and amenity, freedom from humiliation, privacy and autonomy.*
2. *Effect of violating those interests on the living standards of a typical victim—minimum well-being, adequate well-being, significant enhancement.*
3. *Culpability of the offender.*
4. *Remoteness of the actual harm as seen by a reasonable man.*

(See Andrew Ashworth : Sentencing and Criminal Justice, 2005, 4th Edn.)”

7. The purpose of sentencing being both deterrent as well as reformatory, hence, while sentencing of an accused factors, such as psychological and sociological circumstances of an accused; the gravity, nature and manner of committing the offence; the consequences, the social reaction of the offence; the antecedents and tendencies of an accused should be taken into consideration.

8. In the present case, petitioner is a first time offender with no criminal antecedents. Additionally, the petitioner is sole earning member of the family. The financial hardship for the family shall be greatly enhanced in case the petitioner is subjected to undergo the entire imprisonment. I have



247

CRR-1230-2015 (O&M)

also taken note of the fact that after his conviction, he was enlarged on bail but he made no attempts to flee and there are no adverse reports against him from any quarter during the trial or when he was on bail, post the conviction. Besides, he has suffered the agony of a protracted criminal prosecution for nearly 20 years. He has also undergone a total sentence of nearly 8 months. He would also find support from the judgment in the matter of *Hem Raj (Supra)*.

9. Therefore, in my opinion, ends of justice would be met in case sentence of the petitioner is reduced to already undergone, subject to an increase in payment of fine by Rs.10,000/-, over and above the amount of fine already imposed by the learned trial Court. The said amount of fine shall be deposited by the petitioner in the Punjab Chief Minister Relief Fund, Account No.001934001000589, Punjab State Co-op. Bank, IFSC: TPSC00000019 within a period of 3 months from today.

10. In the event of the fine having not been paid within a period of 3 months from the receipt of certified copy of this order, the present revision petition would be deemed to have been dismissed and the petitioner would have to undergo his substantive sentence as awarded by the learned trial Court.

11. The present Revision petition stands **partly allowed accordingly**.

(VINOD S. BHARDWAJ)
JUDGE

28.08.2025

Mangal Singh

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