

2025:PHHC:100907



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

240

**CRA-AS-18-2021
DECIDED ON: 02.07.2025**

STATE OF UT CHANDIGARH

.....APPELLANT

VERSUS

RAHUL

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Balram Singh , Addl. P.P, U.T

SANDEEP MOUDGIL, J

1. The instant appeal under section 377 Cr.P.C. has been preferred by the UT for setting aside quantum of sentence dated 13.01.2020 passed by the Sessions Judge, Chandigarh arising out of an FIR No. 144 dated 28.06.2018 under section 20 of the Narcotics Drugs and Psychotropic Substances Act,1985(herein after referred as 1985 Act) registered at police station Maloya, Chandigarh.

2. Factual matrix of the present case unfolds as under that on 28.06.2018, SI Permanand, along with other police officials, was on patrol duty near Daronacharya Stadium, Chandigarh. Around 6:30 PM, ASI Prema Nand noticed the accused carrying a green bag and acting suspiciously upon seeing the police. He was apprehended, and a search of the bag revealed 110 grams of charas in a white polythene inside the green bag. The accused

failed to produce any licence or permit for the contraband. No independent witness agreed to join the investigation. The charas was weighed, sealed on the spot, and a seizure memo was prepared. The seal was handed to HC Ram Bhagat. SI Neeraj Kumar, the second IO, reached the spot, verified the recovery, took over the investigation, and arrested the accused. The case property was produced before the SHO, who verified the facts, added his seal, and deposited it with the MHC.

3. A prima facie case was made out under section 20 of NDPS Act and charges were framed, to which the accused did not plead guilty. Further prosecution witnesses were examined after which the accused recorded his statement under section 313 Cr.P.C. wherein he pleaded himself to be innocent.

4. The trial court on 13.01.2020, convicted the accused person and sentenced to undergo RI for 6 months and to pay fine in sum of Rs 10,000 and in default of fine further to undergo RI for 1 month.

5. It is contended by learned state counsel that the judgment passed by the trial Court suffers from grave illegality, perversity and the same is based upon surmises and conjectures and as such the same is liable to be set aside and accused should be granted enhanced punishment as 110 grams of charas was recovered from the petitioner, therefore he being a drug peddler calls for no leniency.

6. Heard.

7. This court has perused the trial court judgement carefully and is of the view that court below has considered all the relevant mitigating and aggravating circumstances of the present case. The accused was

apprehended in possession of 110 grams of Ganja, which though slightly exceeds the threshold of "small quantity" as defined under the NDPS Act, still falls well short of "commercial quantity".

8. One important factor meriting consideration is the age of the accused. He is a young individual, apparently in the formative and impressionable years of his life. This stage is often susceptible to misguidance, peer pressure, or lack of awareness regarding the consequences of one's actions. It is thus a period where rehabilitative efforts, rather than purely punitive ones, may yield positive social outcomes.

9. It is further noted that the accused is a first-time offender, with no prior criminal record or history of involvement in similar or other offences. He has been cooperative during the trial, and nothing on record suggests any tendency towards hardened criminal behaviour. These factors weigh in favour of giving the accused an opportunity for reform rather than imposing a harsh sentence that may be counterproductive to his rehabilitation and by making him suffer incarceration with other hard core criminals may transform him into a criminal as the atmosphere inside the jail is not congenial.

10. Although the contraband recovered does not qualify as a "small quantity", it is only marginally higher than the limit prescribed. Under the NDPS Act, no minimum sentence has been made mandatory for such quantity. Therefore, judicial discretion is permitted and must be exercised with caution, keeping in view the objectives of criminal justice, including the evolving principles of penology.

11. Modern penological trends emphasize restorative justice and rehabilitation, especially in cases involving youthful or first-time offenders. The criminal justice system, in appropriate cases, must make efforts to bring such individuals back into the mainstream of society, rather than isolate them through long-term incarceration that may hinder any possibility of future reintegration.

12. Taking into account the above factors, I am of the view that this case does not warrant the imposition of the maximum punishment. A lenient approach, combined with supervision and guidance, would serve the ends of justice more appropriately in this case.

13. In view of the above stated discussion and on perusal of the judgment passed by the trial Court dated 13.01.2020 this court is of the view that judgment of the trial court is well reasoned and is based upon proper appreciation of evidence led by the parties. The ground culled out by the trial Court, cannot be said to be faulty, contrary to law or requiring any interference by this Court.

15. Accordingly, the present Appeal stands dismissed, being devoid of merits.

02.07.2025*Sham***(SANDEEP MOUDGIL)
JUDGE**

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