



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

343

CRA-S-1067-SB-2011 (O&M)
Date of decision: 07.03.2026

NISHAN SINGH

.....Appellant

VERSUS

STATE OF HARYANA

.....Respondent

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

Present: - Ms. Seema Kumari, Advocate for
Mr. G.S. Sandhu, Advocate s
for the appellant.

Mr. Armaan Dahiya, AAG, Haryana.

VINOD S. BHARDWAJ, J. (Oral)

1. This is an appeal against the judgment of conviction dated 17.01.2011 and order of sentence dated 20.01.2011 passed by the Judge, Special Court, Karnal whereby the appellant had been convicted and sentenced to undergo rigorous imprisonment for a period of 3 ½ years and to pay a fine of Rs. 50,000/- (and in default of payment of fine to further undergo rigorous imprisonment for one year) for commission of offence under Section 15(b) read with Section 31(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985 in case bearing FIR No. 90 dated 16.03.2008 registered at Police Station Assandh, District Karnal.

2. Briefly stated, the facts of the present case are that on 16.03.2008, ASI Didar Singh, along with HC Raj Kumar and Constable

Surender, was on patrolling duty in the area of village Rattak. When they reached the bus stop of village Khanda Kheri, they noticed a person coming from the side of Dera Jida carrying a plastic bag. On seeing the police party, he started walking briskly but was apprehended on suspicion. On interrogation, he disclosed his name as Nishan Singh son of Mangal Singh. On checking the plastic bag, choora post was recovered. Two samples of 200 grams each were separated and sealed with the seals bearing the impression “DS”. The remaining 3 kg 200 grams of choora post was also sealed. The case property was taken into possession vide recovery memo Ex. P3. Rukka Ex. P4 was sent through Constable Surender, and the site plan Ex. P5 of the place of recovery was prepared. Thereafter, the accused, along with case property and witnesses, was produced before SHO Ram Bhaj, who verified the facts and affixed his seal “RP” on each parcel. The case property was deposited with the MHC. On the next day, the accused, along with the case property, was produced before the Illaqa Magistrate under Section 52-A of the NDPS Act.

3. Upon completion of the investigation, the challan was presented against the appellant before the competent Court. Copies of the same were supplied to the appellant as per Section 207 of the CrPC.

4. After the parties had led their respective evidence and upon conclusion of the trial, the appellant was held guilty and sentenced accordingly by the trial Court. Aggrieved thereof, the present appeal had been instituted.

5. At the outset, learned counsel for the appellant submits that she doesn't want to challenge the judgment on merits and confines her prayer

and arguments only to the quantum of sentence awarded. She contends that the appellant's sentence was suspended by this Court vide order dated 13.09.2011. She contends that the appellant is a poor person, the only breadwinner of his family and has one young daughter. The FIR in the present case was registered in 2008, and 18 years have lapsed since then. The appellant has faced the agony of protracted criminal proceedings for nearly 18 years and has already undergone about 10 months of actual sentence. It is further contended that there is nothing on record to suggest that the appellant has misused the concession of suspension of sentence that was awarded to him.

6. On the other hand, the learned State counsel, while opposing the submissions advanced on behalf of the appellant, has argued that the prosecution has successfully established the guilt of the appellant through cogent, reliable, and convincing evidence brought on record during the trial. It is further contended that the offence committed by the appellant is of a serious nature and, therefore, calls for imposition of a stringent sentence. The learned State counsel submits that leniency in such cases would send a wrong signal to society and undermine the administration of criminal justice. Hence, it is imperative that adequate and deterrent punishment be imposed to ensure that such acts do not recur and to maintain public confidence in the rule of law.

7. I have heard learned counsel representing the parties and have gone through the case record.

8. Since the appellant has given up the challenge to the judgment of conviction on merits, the said issues are not being gone into at this stage.

The discussion is thus solely restricted to the issue of sentencing and quantum of punishment.

9. The Hon'ble Supreme Court in the matter of **Pramod Kumar Mishra Vs. State of UP (2023) 9 SCC 810**, observed that punishment must not be viewed as an act of vengeance but as a means of reformation and reintegration of the offender into society. It was further held that an appropriate sentence must be determined by considering a range of factors, including the nature and circumstances of the offence, the offender's background, age, mental and emotional condition, potential for rehabilitation, prior criminal record, and the deterrent needs of the community. Sentencing, the Court noted, involves a delicate exercise of judicial discretion where multiple social, psychological, and moral factors must be balanced to ensure that justice serves both societal protection and individual redemption.

10. The fundamental purpose of imposition of sentence is based upon making an accused realize the consequences of the crime committed by him and the creation of the dent in the life of the victims and also the social fabric. The same by itself does not oblige the Court to extend opportunity to a convict for reforming himself. The principles of proportionality have to be balanced and the impact of the offence on the society as a whole and its ramifications on the victim and the immediate collectives also has to be examined.

11. A nine judge bench of the Supreme Court of the United States, in *Dennis Councle McGautha v. State of California* reported as 402 U.S. 183 (1971), observed that the criteria governing sentencing neither furnish an

exhaustive list of relevant considerations nor indicate how various circumstances should influence the decision-making process. In essence, these standards merely suggest broad areas for consideration and underscore the inherent difficulty in formulating uniform sentencing principles, particularly in matters of grave offences. The Court further cautioned against rigidly prescribing or mandating uniform standards for sentencing, emphasizing that the principles governing punishment must depend upon the facts and circumstances of each individual case, and that no straightjacket formula can be universally applied.

12. Moreover, Italian criminologist and jurist Cesare Beccaria, in his seminal treatise “On Crimes and Punishments,” propounded the doctrine of penal parsimony, emphasizing that the justification of any criminal justice system rests upon its capacity to inflict the least possible evil necessary to achieve its ends. The underlying premise is that punishment, being in itself a necessary evil and devoid of inherent virtue, must be confined strictly within the bounds of necessity. The imposition of suffering or restriction upon an offender cannot extend beyond what is indispensable for the preservation of social order.

13. The penal consequences, in such circumstances, deserve to be moderated to ensure a balance of equities, particularly when the offender has exhibited genuine reformative conduct. The sentence, therefore, warrants suitable modification to reflect recognition and encouragement of such good behaviour.

14. It is well settled that the object of punishment is not merely to deter but also to reform, and where an offender demonstrates sincere

remorse and rehabilitation, the emphasis must shift from retribution to reintegration into society.

15. The case in hand is yet another where interest of justice would warrant a reformatory approach in precedence to a punitive or retributive approach. It is not the function of the judges to seek the transformation of human nature itself, but rather to shape the framework within which individuals perceive that adherence to the law aligns with their own best interests.

16. Adverting to the facts of the present case and the mitigating circumstances as pointed out by counsel for the appellant, it is established that the appellant has undisputedly faced the agony of a criminal trial for a period of 18 years. Besides, he has already undergone an actual sentence of about 10 months out of a total sentence of 3 ½ years. There is also no material to show that the appellant has indulged in any other crime after his release on bail. He has thus shown a reformatory tendency. He has one young daughter, who must be of marriageable age by now. Sending the appellant to custody would impede his daughter's matrimonial prospects. Seemingly, the appellant chose reformation for her future. His past would continue to haunt him for the rest of his life if confined, and would erode the belief that good conduct is rewarding.

17. This Court is of the opinion that sufficient mitigating circumstances exist in the present case and the same call for interference and modification in the sentence, under the above peculiar circumstances.

18. Taking into consideration the facts relied upon by the appellant,

I thus deem it appropriate to **partly allow the appeal**. While maintaining the

judgment of conviction, the order of sentence is modified. The sentence awarded by the Judge, Special Court, Karnal, vide order dated 20.01.2011, is modified and reduced to the period already undergone.

19. All the pending miscellaneous application(s), if any, are also disposed of.

MARCH 07, 2026

Vishal Sharma

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No