



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

344

CRA-S-1073-SB-2011 (O&M)
Date of decision: 07.03.2026

Jarnail Kaur @ Jarnailo ...Appellant(s)

VERSUS

State of Punjab ...Respondent(s)

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

Present :- Mr. P.S. Sekhon, Sr. Advocate with
Ms. Nitika Sekhon, Advocate for the appellant.

Dr. (Ms.) Savi Nagpal, AAG Punjab.

VINOD S. BHARDWAJ, J. (Oral)

1. The appellant has challenged the judgment of conviction and order of sentence dated 04.04.2011 passed by the learned Judge, Special Court, Patiala whereby he was convicted in case bearing FIR No.373 dated 12.08.2008 registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Sadar, Patiala, and sentenced as under:-

Section	Sentence	In default thereof
15 of the N.D.P.S. Act	RI for a period of 09 months and a fine of Rs.500/-.	RI for a period 01 month

2. Briefly summarized, the facts of the present case are that on 12.08.2008, while ASI Bhupinder Singh along with his police party was on patrolling duty near the turning of 15 village Chuharpur Marasian, Kulwant

Singh, ex-Sarpanch of the said village, came there and started talking to him. In the meantime, a woman was seen coming from the side of Village Chuaharpur Marasian carrying a plastic bag on her head. On seeing the police party, she, at once, tried to turn back. On suspicion, ASI Bhupinder Singh with the help of his companions stopped the said woman through lady constable Sarabjit Kaur, who, on inquiry, disclosed her name as Jarnail Kaur and also disclosed other particulars. ASI Bhupinder Singh informed Jarnail Kaur that he suspects her to be carrying some narcotic substance in the plastic bag and he intends to conduct search of the bag. He also apprised Jarnail Kaur of the right to get the search conducted in the presence of Magistrate or Gazetted Officer, who can be called at the spot. However, Jarnail Kaur reposed confidence in ASI Bhupinder Singh and expressed her desire to get the search conducted by him, upon which, consent memo was prepared. Thereafter, ASI Bhupinder Singh, conducted search of the plastic bag, which led to recovery of poppy husk. Two samples of 100 grams each were separated and the remaining poppy husk, weighing 15kg, 800 grams was made into a parcel. The sample parcels and the residue were sealed with the seal bearing impression 'BS' and the sample seal was prepared separately. All the aforesaid articles along with the sample seal were taken into possession vide separate memo. A ruqa was sent to the police station, on the basis whereof, case was registered against the appellant.

3. On return to the police station, the accused along with the case property was produced before the SHO, who verified the factum of recovery and counter sealed the parcels and the sample seal with his seal bearing impression "KS" and then deposited the case property with MHC. During

the course of investigation, one sample parcel was sent to the office of the Chemical Examiner and the latter vide its report, opined the same to be "Chura poppy heads".

4. On completion of investigation and filing of the final report under Section 173 Cr. P.C., the charge was framed. The prosecution led its evidence, on conclusion whereof, the statement under Section 313 Cr.P.C was recorded. The appellant denied the allegations. No defence evidence was however led by the appellant/accused.

5. Parties were heard at length and upon consideration thereof, vide judgment dated 04.04.2011, the appellant was convicted for commission of offence under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985. Vide order of sentence of the same date, the appellant was ordered to undergo RI for a period of 09 months with a fine of Rs.500/- and in default thereof, to undergo further RI of 01 month. Aggrieved thereof, the instant appeal had been filed.

6. Learned senior counsel appearing on behalf of the appellant has vehemently argued that mandatory provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985 has not been complied with. He contends that the prosecution has failed to examine the independent witness-Kulwant Singh. Moreover, neither the CFSL form was prepared at the spot nor the same was deposited by the Investigating Officer, rather the same was filled on 01.09.2008 i.e. after a delay of 19 days. He contends that the remaining sentence of the appellant was suspended vide order dated 27.05.2011 and at that time, she had already undergone the actual sentence of 02 months 17 days, out of total sentence of 09 months. He further contends that there are

material discrepancies in the testimony of prosecution witnesses and that the appellant has no other criminal antecedents.

7. State counsel on the other hand contends that the case against the appellant has been fully established. The prosecution examined as many as 05 witnesses besides adducing documentary evidence. All the mandatory provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985 were duly complied with. It is also submitted that the appellant had been apprehended at the spot and the recovery effected was from her conscious possession, hence, there was no occasion of any false implication. Besides, there is no ill-will or false motive on part of any person to indict the appellant in the present case. She contends that the conviction is thus based upon proper appreciation of the evidence that had been adduced.

8. Counsel for the appellant at this juncture contends that in the event this Court does not find sufficient grounds for setting aside the judgment passed by the Judge, Special Court, Patiala, the submission with respect to the sentence may be considered. It is contended by him that the Judge, Special Court, Patiala had awarded a sentence of RI for a period of 09 months. The appellant has undergone an actual custody of nearly 03 months and is not involved in any other case. It is further contended that the incident in question pertains to the year 2008 and already a period of more than 17 years has elapsed. The appellant has already faced the agony of a protracted criminal prosecution. Besides, there is no subsequent involvement of the appellant in any other criminal case as well.

9. Learned State counsel does not dispute the aforesaid aspects.

10. I have heard the learned counsel for the respective parties and

have gone through the documents as well as the judgment of the Court.

11. The case is thus not made out for interfering with the finding of conviction recorded by the Judge, Special Court, Patiala. The appeal to the extent of the judgment of conviction is accordingly dismissed.

12. The same thus leads to the next issue as to whether sufficient mitigating circumstances have been made out by the learned Senior counsel for the appellant for reducing of the sentence.

13. The following aspects attain significance for consideration of the said prayer: -

- (i) The incident in question pertains to the year 2008 and a period of more than 17 years has already elapsed since the commission of the offence and the appellant has faced the agony of criminal prosecution for that long.
- (ii) The appellant is not involved in any other criminal offence.
- (iii) The appellant has already undergone an actual sentence of nearly 03 months out of the total sentence of 09 months.
- (iv) The appellant is a lady and at present she is about 76 years of age. Detention of the appellant for undergoing the remaining sentence would invariably have serious implications on her health.
- (v) The quantity of contraband recovered from the appellant doesn't fall under the category of "commercial quantity".

14. The object of law being not only retributive but also reformative, the purpose would be defeated in case some benefit is not extended to an accused who has shown reformative tendencies.

15. On the issue of reduction of sentence to the period already undergone, the judgment in ***S.K. Sakkar @ Mannan vs. State of West Bengal, (2021) 4 SCC 483***, is being referred to wherein the accused was convicted under Section 20 of the Act and Hon'ble Apex Court reduced the sentence of five years to 2 years, 4 months and 16 days, by considering that the occurrence took place in 1997 and he was not a habitual offender, rather a first-time convict.

16. Hon'ble Supreme Court in ***Satish @ Sabbe vs. State of U.P., (2021) 14 SCC 580***, had observed that, *"Whilst it is undoubtedly true that society has a right to lead a peaceful and fearless life, without free roaming criminals creating havoc in the lives of ordinary peace loving citizens. But equally strong is the foundation of reformatory theory which propounds that a civilised society cannot be achieved only through punitive attitudes and vindictiveness; and that instead public harmony, brotherhood and mutual acceptability ought to be fostered. Thus, first time offenders ought to be liberally accorded a chance to repent their past and look forward to a bright future". [Maru Ram v. Union of India, (1981) 1 SCC 107 : 1981 SCC (Cri) 112]"*.

17. The circumstances noticed above and the position in law referred to above support the case of the appellant for reduction in sentence.

18. Considering that the appellant has already suffered the agony of a long-protracted trial, successfully warded off her crime proneness-an

evident learning of a lesson and has already undergone an actual sentence of nearly 3 months out of the total sentence of 9 months, this Court finds sufficient mitigating factors. Thus, ends of justice would be served by reducing her sentence to the period already undergone. However, the fine imposed by the Trial Court is kept intact alongwith the punishment in default thereof.

19. In view of the above, the present appeal is ***partly allowed***. While upholding the conviction, the order of sentence is modified and the order dated 04.04.2011 is reduced to the period undergone and the sentence of fine and custody in default thereof is maintained.

(VINOD S. BHARDWAJ)
JUDGE

07.03.2026

Mangal Singh

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