



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

346

CRA-S-1170-SB-2011 (O&M)
Date of decision: 07.03.2026

SUBHASH CHAND

.....Appellant

VERSUS

STATE OF PUNJAB

.....Respondent

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

Present: - Ms. Seema Kumari, Advocate (Legal Aid Counsel)
for the appellant.

Dr. (Ms.) Savi Nagpal, Asst. A.G. Punjab.

VINOD S. BHARDWAJ, J. (Oral)

1. This is an appeal against the judgment of conviction and order of sentence dated 25.02.2011 passed by the Judge, Special Court, Shaheed Bhagat Singh Nagar whereby the appellant has been convicted and sentenced to undergo rigorous imprisonment of one year and to pay fine of Rs. 2,000/- and in default of payment of fine to further undergo RI of one month for commission of offence under Section 15 of the N.D.P.S. Act, 1985 in case bearing FIR No. 261 dated 29.09.2005 registered under Section 15 of the NDPS Act, 1985 at Police Station City, Nawanshahr.

2. Briefly stated, as per the case of the prosecution that on 29.09.2005, SI Varinder Kumar of CIF Staff, Nawanshahr along with other

police officials was on patrolling duty in a government vehicle. When they were going from Chandigarh Road, Nawanshahr towards Guru Angad Nagar, they saw a person carrying a bag on his head. On seeing the police, he became nervous and tried to turn back. On suspicion, he was apprehended and disclosed his name as Subhash Chand. An independent witness was joined. SI Varinder Kumar informed the accused about his right to get the search conducted before a Gazetted Officer or a Magistrate, but the accused reposed confidence in the police officer. His consent memo was prepared. On checking the bag, poppy husk was recovered. Two samples of 250 grams each were taken and the remaining poppy husk weighed 14 kg 500 grams. The samples and remaining poppy husk were sealed and taken into police possession. The accused could not produce any licence or permit to keep the poppy husk. A ruqa was sent to the police station and FIR was accordingly registered.

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

4. After the parties 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 has been instituted.

5. No one has chosen to appear on behalf of the appellant .The appeal pertains to the year 2011, further wait is not justified. Accordingly, Ms. Seema Kumari, Advocate, Enrollment No. WB/4293/2023, Mobile No.

9476027824 is appointed as Legal Aid Counsel to assist this Court on behalf

of the appellant.

6. At the outset, learned Legal Aid 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 appellant's sentence was suspended vide order dated 12.07.2011. She contends that the FIR in the present case had been registered in the year 2005 and already a period of more than 20 years has lapsed since then. The appellant has faced agony of protracted criminal proceedings for more than 20 years and has already undergone 09 months and 13 days of actual sentence. It is further contended that there is nothing on record to suggest that appellant has misused the concession of suspension of sentence that was awarded to him.

7. 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 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.

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

9. Since the appellant has given up the challenge to the judgment of conviction on merits, hence, 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. The 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]".

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 agony of criminal trial for a period of 20 years. Besides, he has already undergone an actual custody of 09 months and 13 days out of a total sentence of 01 year. 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.

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 petition**. While maintaining the judgment of conviction, the order of sentence is modified.

The sentence awarded by the Judge, Special Court, Shaheed Bhagat Singh Nagar, vide order dated 25.02.2011 is modified and reduced to the period

already undergone.

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

20. A copy of this order be sent to the High Court Legal Service Committee for information and necessary action.

MARCH 07, 2026
Vishal Sharma

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No