



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

255

CRA-S-1381-SB-2012
Date of decision: 14.01.2026

KRISHAN SINGH AND ANOTHERPetitioners

VERSUS

STATE OF PUNJABRespondent

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

Present: - Ms. Tarranum Madan, Advocate with
Ms. Mamta, Advocate
for the appellants.

Mr. Saurav Verma, Addl. A.G. Punjab.

VINOD S. BHARDWAJ, J. (Oral)

This is an appeal against the judgment of conviction dated 03.04.2012 and order of sentence of even date passed by the Judge, Special Court, Patiala whereby the appellants have been convicted and sentenced to undergo rigorous imprisonment for a period of six months and to pay fine of Rs. 500/- each and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month for commission of offence under Section 21 of the Narcotics Drugs and Psychotropic Substances Act, 1985 in case bearing FIR No. 80 dated 04.05.2008 registered under Section 21 of the Narcotics Drugs & Psychotropic Substances Act, 1985 at Police Station Patran.

4.5.2008 upon receipt of secret information, the police party proceeded to lay a Naka at Bridge Canal Rasoli and noticed that two persons are coming from the side of village Kharkan in a bicycle. On seeing the police party they got perplexed and tried to turn back. However, they were apprehended. On enquiry the person who was driving the bicycle disclosed his name as Krishan Singh son of Ram Karan resident of Jai Singh Pur and the person who was sitting pillion disclosed his name as Rajesh Kumar son of Gowardhan Rasm resident of Rangruti Khera. The Investigation Officer disclosed his identity to the accused. He appraised the accused of his suspicion and his authority to conduct their personal search and the search of the bicycle. He appraised the accused of the right to get their search conducted in the presence of some gazetted officer or Magistrate. The accused gave their consent for search reposing faith in the Investigating Officer. After the search was conducted, a polythene Lifafa containing smack was recovered. Two samples of one gram each were separated and made into parcel. The remaining smack came out to be 48 gram which was also sealed in the parcel. All the parcels were sealed by the Investigating Officer with his seal bearing impression SS. Sample of seal was prepared separately and seal after use was handed over to HC Chana Ram. The recovered Smack as well as the samples alongwith bicycle were also taken into possession. A ruqa was dispatched to the police station, on the basis of which formal FIR was registered. A rough site plan was prepared. After completing the necessary formalities at the spot, the accused alongwith the alleged contraband and the samples were taken to the Police Station and produced before the SHO/SI Jaswinder Singh so as to comply with the provisions of Section 55 of the Act, who verified about the factum of

recovery of the contraband from the witnesses and interrogated the accused and sealed the parcels with his seal bearing seal impression "JS". Upon analysis, the sample tested positive of Narcotic Substance to the extent of 18.47%, which confirmed to standard of Narcotic substance termed as Smack. Upon receipt of the report of the Chemical Examiner and upon completion of the investigation, the challan was presented in the court against both the accused to face trial.

3. On completion of the procedural compliances, parties led their respective evidence. The prosecution examined as many as four prosecution witnesses namely PW HC Gurcharan Singh, PW SI Jaswinder Singh, SHO, PW HC Shamsher Singh, PW HC Balbir Singh, Investigating Officer PW SI Satnam Singh as formal witnesses and PW HC Chana Ram as recovery witness. The evidence was thereafter closed.

4. The entire evidence was put to appellants and their statement under Section 313 Cr. P.C. was recorded. He denied the allegations but led no evidence in defence.

5. After hearing the arguments and on consideration of evidence, the appellants were convicted by the Judge, Special Court, Patiala vide judgment and order of quantum of sentence dated 03.04.2012. Hence, the present appeal.

6. Learned counsel for the appellants at the outset contends that she does not wish to challenge the conviction and confines her prayer only to the sentencing. She submits that the present matter pertains to the year 2008 and that no other criminal case stands registered against the appellants. It is further submitted that the appellants have already undergone an actual custody of more than half of the awarded sentence. Counsel further submits

that the alleged offence occurred in 2008 and that the appellants have faced agony of a protracted trial for nearly 17 years. She further submits that both appellants are in their forties and their continued incarceration will cause huge losses to their families. Accordingly, it is prayed that the sentence imposed upon the appellants be reduced to the period already undergone.

7. On the other hand, the learned State counsel, while opposing the submissions advanced on behalf of the appellants, has argued that the prosecution has successfully established the guilt of the appellants through cogent, reliable, and convincing evidence brought on record during trial. It is further contended that the offence committed by the appellants 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. 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 reformatory 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 example where interest of justice would warrant a reformatory approach in precedence to a punitive or retributive approach. It is not the function of the judge 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. This Court is of the opinion that sufficient mitigating circumstances exist in the present case, as have been noticed above, and the same call for interference and modification in the sentence.

17. Taking into consideration, the facts relied upon by the appellants, 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, Patiala vide order dated 03.04.2012 is modified and reduced to the period already undergone. However, the sentence of fine awarded by the trial Court to a sum of Rs.500/- is increased to Rs.1000/-. They shall undergo the default punishment as prescribed, in an event of non-deposit of fine.

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

JANUARY 14, 2026
Vishal Sharma

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No