

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



**CRA-S-3387-SB-2011 (O&M)
Date of Decision: 19.05.2026**

KAMAL

... PETITIONER

VERSUS

STATE OF HARYANA

... RESPONDENT

CORAM : HON'BLE MR. JUSTICE H.S.GREWAL

Present:- Mr. Onkar Rai, Advocate for the appellant.
Mr. Vijay Kumar, AAG Haryana.

H.S. GREWAL, J. (ORAL)

1. Present appeal has been filed against the judgment of conviction dated 05.11.2011 and order of sentence dated 07.11.2011 passed by the learned Addl. Sessions Judge, Faridabad whereby the appellant was convicted and sentenced to undergo rigorous imprisonment for a period of four years and to pay a fine of Rs.10,000/- under Section 326 IPC and in default of payment of fine, to further undergo rigorous imprisonment for a period of three months.

2. The case of the prosecution is that on 25.08.2009, an information was received that Dharamraj had sustained injuries in a firing incident at village Badshahpur and was admitted in B.K. Hospital, Faridabad. ASI Rajesh Kumar along with Constable Sanjeev Kumar visited the hospital and obtained the medico legal report regarding the fitness of the injured. As the injured was referred to Safdarjung Hospital, Delhi, the Investigating Officer proceeded there and moved applications for recording his statement, but the doctors repeatedly declared him unfit to make a statement. Thereafter, the Investigating Officer recorded the statement of Mehar Chand. The complainant stated that on 24.08.2009 at about 9/9:30 p.m., he was present in the house of Dharamraj when the complainant's younger brother Laxman came and called him home.

When he went there, he was Dharamraj lying injured and bleeding on the floor near the door. On enquiry, he disclosed that Kamal, who was nephew of Dharamender had shot him. The complainant and his friend then shifted the injured to B.K. Hospital, from where he was referred to Safdarjung Hospital due to his serious condition.

3. Learned counsel for the appellant contends that he is not assailing the impugned judgment of conviction on merits and restricts his prayer qua modification of the order on quantum of sentence. He also contends that the appellant was 25 years of age at the time of conviction and he has undergone custody for a period of 01 year and 09 months and 26 days out of the awarded sentence of four years. He prays that since FIR in question pertains to the year 2009, a lenient view may be taken while passing an order on quantum by this Court.

4. Learned State counsel opposes the prayer of the appellant and filed the custody certificate in the Court, which is taken on record. He further submits that the Court below has passed a well reasoned judgment based on correct appreciation of evidence available on record.

5. I have heard learned counsel for the parties and have gone through the material placed on record.

6. The FIR in the present case pertains to the year 2009 and the appellant has already faced the rigors of the trial for more than 16 years.

7. Hon'ble the Supreme Court in "***Deo Narain Mandal Vs. State of UP***", (2004) 7 SCC 257, has held that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, the manner in which the offence is committed, age of the

appellants, should be considered while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient.

8. Further, a Division Bench of the Hon'ble Supreme Court in ***Ravada Sasikala Vs. State of AP, AIR 2017 SC 1166***, has held that the imposition of sentence also serves a social purpose, as it acts as a deterrent by making the accused realise the damage caused not only to the victim, but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner, in which the crime was committed and conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

9. A perusal of the judgment of conviction passed by the Court below indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. However, learned counsel for the appellant has not assailed the judgment, rather restricted the prayer only qua modification of quantum of sentence to that of the sentence already undergone by the appellant.

10. As far as the question of quantum of sentence is concerned, it is worthwhile to note that the occurrence in this case pertains to the year 2009. The right to speedy and expeditious trial is one of the most valuable and cherished rights guaranteed under the Constitution. The appellant has already suffered the agony of protracted trial, spanning over a period of more than 16 years and has been in the corridors of the court for this prolonged period. In

view of the facts noted above, the case of the appellants deserve to be dealt with leniency. The appellant also deserves the benefit of the consistent view taken by this court in this regard. Thus, guided by the judicial pronouncements made by the Hon'ble Supreme Court in the cases of Haripada Das Vs. State of West Bangal reported in (1998) 9 SCC 678 and Alister Anthony Pareira vs. [2023:RJ-JD:28174] (5 of 5) [CRLR-755/2003] State of Maharashtra reported in 2012 2 SCC 648 and considering the facts and circumstances of the case, age of appellant, his status in the society and the fact that he faced financial hardship and had to go through mental agony, this court is of the view that ends of justice would be met, if sentence imposed upon the appellant is reduced to the period as already undergone by him.

11. Accordingly, judgment passed by the learned Addl. Sessions Judge, Faridabad is hereby affirmed but the quantum of sentence awarded by the Court concerned under Section 326 IPC has been modified and reduced to the period of sentence as already undergone by him. The appellant is on bail. He need not surrender. His bail bonds are discharged.

12. With these modifications, the present appeal is disposed of.

13. Pending application(s), if any, shall also stand disposed of.

19.05.2026

Janki

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(H.S.GREWAL)

JUDGE