

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

2026:PHHC:070531



107

CRA-S-1596-2026 (O&M)

Date of Decision: 06.05.2026.

Fernando Benz @ Chibuike Benjamin

...Appellant.

Versus

State of Haryana

...Respondent.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

.....

Present: Ms. Garima Sharma, Advocate for the appellant.

Mr. R.K. Singla, Addl. A.G., Haryana.

SUKHVINDER KAUR, J.

CRM-19906-2026

Prayer made in the application under Section 5 of the Limitation Act for condonation of delay of 98 days in filing the present appeal.

Keeping in view the averments made in the application, the delay of 98 days in filing the appeal is hereby condoned.

CRM disposed of.

Main case

1. By way of this appeal, the appellant has challenged the judgment of conviction and order of sentence dated 02.12.2025 passed by learned Additional Sessions Judge, Gurugram, vide which the appellant was sentenced as under:-

Section	Sentence
21(b) of NDPS Act	to undergo rigorous imprisonment for a period of 04 years along with fine of Rs.20,000/- and in default of payment of fine to further undergo simple imprisonment for a period of one month.
3/14 of Foreigner Act, 1946	to undergo rigorous imprisonment for a period of 02 years along with fine of Rs.5,000/- and in default of payment of fine to further undergo simple imprisonment for a period of 15 days.
468 of IPC	to undergo rigorous imprisonment for a period of 03 years along with fine of Rs.5,000/- and in default of payment of fine to further undergo simple imprisonment for a period of 15 days.
471 IPC	to undergo rigorous imprisonment for a period of 03 years along with fine of Rs.5,000/- and in default of payment of fine to further undergo simple imprisonment for a period of 15 days.

2. Brief facts of this case are that the aforesaid FIR was registered against the appellant when he was apprehended by the police officials and 160 grams of heroin was recovered from him, which falls in intermediate quantity. He failed to produce any license regarding the conscious possession of the same. The investigation was completed and challan was presented. After trial, the appellant was convicted and sentenced as stated above by the trial Court, hence this appeal has been filed by the appellant, challenging his conviction and sentence.

3. Learned counsel for the appellant has submitted that he does not want to challenge the conviction of the appellant on merits but as far as sentence part is concerned, he prays that the same may be reduced to that of already undergone by the appellant. He has submitted that the FIR in present case pertains to the year 2022 and the appellant has already undergone the actual sentence of 03 years, 07 months and 03 days of the total awarded sentence of four years by the trial Court. He has submitted

that as such a lenient view be taken and the sentence awarded be reduced to that of already undergone.

4. Per contra, learned counsel for the respondent State submitted that well-reasoned judgment has been passed by the Court below, based on correct appreciation of evidence available on record and the applicant-appellant does not deserve any leniency.

5. Learned counsel for the parties have been heard and the record has been meticulously examined with their able assistance.

6. Since the appellant has not challenged the judgment of conviction on merits, as such the said issues are not being gone into at this stage and it is being restricted to the issue pertaining to sentencing and quantum of punishment.

7. The Hon'ble Supreme Court, in **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.

8. Hon'ble Supreme Court again reiterated in **Ravada Sasikala v. State of AP reported as AIR 2017 SC 1166**, that 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 the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused. In order to determine the quantum of sentence, Courts should bear in mind the principle of proportionality as awarding punishment is not merely retributive but also reformative.

9. The perusal of impugned judgment reveals that there is no perversity and evidence on record has been appreciated in the right perspective, but as observed above, the counsel for the appellant has not challenged the conviction on substantive grounds and while limiting his plea solely to modification of the quantum of sentence to one already undergone.

10. Learned State counsel has produced the custody certificate of the applicant-appellant, as per which the applicant-appellant has already undergone custody of 03 years, 07 months and 03 days out of awarded substantive sentence of four years.

11. Taking into consideration the facts noticed above that the appellant has faced the rigors of a long criminal prosecution; in the facts and circumstances of the present case it would be in the interest of justice, if sentence awarded to the appellant is reduced to the period already undergone by him.

12. Therefore, in view of the discussion above, the present appeal is disposed of in the following terms :-

“The judgment of conviction dated 02.12.2025 passed by

learned Additional Sessions Judge, Gurugram is upheld and order of sentence of the even date is modified to the extent that the sentence of the applicant-appellant is reduced to the period of sentence already undergone by him.”

13. With the above said observations, the appeal stands disposed of.

14. The concerned jail authorities are directed to release the appellant immediately, if not required in any other case.

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

(SUKHVINDER KAUR)
JUDGE

06.05.2026.

Komal

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