



CRA-S-1070-SB-2006 (O&M) -1-

331 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1070-SB-2006 (O&M)
Date of decision: 06.05.2025

Prem Kumar

.....Appellant

Versus

State of Punjab

.....Respondent

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

Present: Mr. Nandan Jindal, Advocate
for the petitioner.

Mr. Mavpreet Singh, DAG, Punjab.

H.S. GREWAL J. (Oral)

Feeling aggrieved by the judgment of conviction and order of sentence dated 24.05.2006 passed by the learned Judge, Special Court, Sangrur in case FIR No.296 dated 16.07.2004 under Sections 15 of Narcotics Drugs and Psychotropic Substances Act, 1985 (hereinafter 'the NDPS Act'), registered at Police Station Sunam, the appellant has come up before this Court.

2. The case of the prosecution is that on 16.07.2004, the appellant was found to be in possession of 10 Kgs of poppy husk in the area of village Jharon without any valid permit or licence. Pursuant thereto, vide order dated 24.05.2006 passed by the learned Judge, Special Court, Sangrur, the appellant was convicted and sentenced to undergo rigorous imprisonment for a period of 03 months and to pay a fine of Rs.200/- and further in default thereof, to undergo rigorous imprisonment for a period of one month.

3. Learned counsel for the appellant contends that he is not assailing



the impugned judgment of conviction dated 24.05.2006 on merits and restricts his prayer qua modification of the order on quantum of sentence, to the period as already undergone by the appellant, as he has already undergone a period of 01 month and 23 days. He further prays that since the FIR in question pertains to the year 2004, a lenient view may be taken while passing an order/ judgment by this Court.

4. On the other hand, learned State counsel opposes the prayer of the appellant by way of filing of custody certificate dated 06.05.2025 on the ground that the appellant is involved in 04 other cases, however, he is on bail in all the cases and the learned 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 appellant has been convicted for having in possession of 10 kgs of poppy husk which falls in the category of non-commercial quantity attracting the offence of Section 15 of the NDPS Act, for which no minimum punishment has been prescribed. Moreover, the FIR in the present case pertains to the year 2004 and he has already faced the rigors of the trial for more than 20 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 accused, 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 two-Judges 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 learned trial Court 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 of conviction on merits, rather restricted the prayer only qua modification of quantum of sentence to that of the sentence already undergone by the appellant.

10. Since the FIR in the present case was registered on 16.07.2004 and the appellant has been suffering the agony of trial since the last more than 20 years. Since there is no minimum punishment prescribed under Section 15 of the NDPS Act and keeping in view the fact the FIR is of the year 2004 and the appellant has faced the rigors of the trial for more than a period 20 years and



therefore, while taking a lenient view, this Court is of the opinion that it would be in the interest of justice if the sentence awarded to the appellant is reduced to the period already undergone by him.

11. In view of above, the present appeal is **disposed of** by upholding the judgment of conviction dated 24.05.2006 passed by the learned Judge, Special Court, Sangrur, however the order of sentence dated 24.05.2006 is modified to the extent that the sentence of rigorous imprisonment for a period of 03 months and fine along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.

06th May, 2025

Sonia Puri

**(H.S. GREWAL)
JUDGE**

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