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

CRA-S-330-SB-2011 (O&M)**Date of decision: 15.05.2025**

Sarabjit Kaur

.....Appellant

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE H.S. GREWAL**Present:** Mr. C.L. Verma, Advocate
for the appellant.

Mr. Manvir Singh Toor, AAG, Punjab.

H.S. GREWAL J. (Oral)

Feeling aggrieved by the judgment dated 08.12.2010 passed by learned Judge, Special Court, SBS Nagar (Nawanshahr) whereby the appellant has been convicted and sentenced under Section 21 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act'), to undergo rigorous imprisonment for a period of 03 years and to pay a fine of Rs.10,000/- and further in default thereof, to undergo rigorous imprisonment for three months in case FIR No.306 dated 08.11.2009 under Section 21 of NDPS Act, 1985 registered at Police Station Banga, District Shaheed Bhagat Singh Nagar, the appellant has come up before this Court by way of filing of the present appeal.

2. The case of the prosecution is that the on 08.11.2009 SI Surjit Singh alongwith other police officials was on patrolling in government vehicle bearing registration No. PB-32-C-3991, which was being driven by C. Jasbir Singh. At about 5.45, one lady was seeing coming, who tried to turn back on seeing the



police party. On suspicion, she was apprehended. On asking, she disclosed her name as Sarabjit Kaur. SI Surjit Singh disclosed his rank and stated to her that it is suspected that she is carrying contraband and her search is to be conducted. She has legal right to get search conducted in the presence of a Magistrate or a gazetted Officer. The appellant reposed confidence in the Sub Inspector and thereafter, her consent memo was prepared. The police party tried to join the independent witness but none was ready. Thereafter, search of the appellant was conducted through lady constable Kamaljit Kaur and from her corset, one plastic envelope was found in which smack was concealed. Two samples of 2/2 grams were taken out and the parcels of the same alongwith remaining case property were prepared. The remaining case property on weighing, came out to be 296 grams. The accused could not produce any licence or permit to keep smack in her possession.

3. Thereafter, upon conclusion of the trial, the appellant/accused was convicted by the learned Judge Special Court, Shaheed Bhagat Singh Nagar vide impugned order 08.12.2010 and was sentenced to undergo rigorous imprisonment as enumerated above.

4. Learned counsel for the appellant also submits that the appellant has been suffering the agony of trial since 08.11.2009 as the appeal is also an extension of trial. She is stated to be involved in 05 more cases however, she is on bail in those cases. Moreover, the sentence of the appellant in the present case has been suspended by this Court vide order dated 25.04.2011 during the pendency of present appeal and it would be just and expedient to reduce the sentence awarded to the appellant by the learned Judge, Special Court to the period as already undergone. Learned counsel for the appellant states that



without referring to the merits of the case, he prays for reduction of sentence while taking a lenient view on the ground that the appellant has been facing rigors of the present case since the year 2009.

5. At this stage, counsel for the appellant submits that he is not assailing the judgment of conviction on merits, rather restricts his prayer *qua* modification of the order of sentence to the period already undergone.

6. On the other hand, learned State counsel opposes the prayer of the appellant by way of filing of custody certificate dated 14.05.2025 on the ground that the Special Court concerned has passed a well-reasoned judgment after taking into consideration the entire evidence and the material available on record and there is no perversity or illegality in the findings returned by it. He further submits that the appellant is involved in 05 more cases, however, she is on bail in all the cases.

7. A two Judge Bench of the Hon'ble Supreme Court in ***Mohd. Giasuddin Vs. State of AP, AIR 1977 SC 1926***, speaking through Justice V.R. Krishna Iyer, has observed as under:-

"Crime is a pathological aberration. The criminal can ordinarily be redeemed and the state has to rehabilitate rather than avenge. The sub-culture that leads to antisocial behaviour has to be countered not by undue cruelty but by reculturization. Therefore, the focus of interest in penology is in the individual and the goal is salvaging him for the society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today vies sentencing as a process of reshaping a person who has deteriorated into criminality and the modern community has a primary stake in the rehabilitation of the offender as a means of a social defence. Hence a therapeutic, rather than an 'in terrorem' outlook should prevail in our criminal courts, since brutal incarceration of the



person merely produces laceration of his mind. If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries."

8. 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.

9. Further, a two-Judge 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.



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10. A perusal of the judgment of conviction passed by the learned Judge, Special Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. 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 period already undergone by the appellant.

11. Considering this fact that FIR is of the year 2009 and the appellant has already faced the rigors of trial and the fact that she has undergone 01 year 05 months and 23 days of custody, therefore, while taking a lenient view in the present case, this Court deems it fit to reduce the sentence awarded to the appellant to the period already undergone.

12. In view of above, the present appeal is **disposed of** by upholding the judgment of conviction dated 08.12.2010 passed by the learned Judge, Special Court, Shaheed Bhagat Singh Nagar. However the order of sentence dated 08.12.2010 is modified to the extent that the sentence of rigorous imprisonment for a period of 03 years and fine along with default clause awarded to the appellant is reduced to the period of sentence already undergone by her

13. The present appeal is disposed of accordingly.

15th May, 2025

Sonia Puri

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

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