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

**CRA-S-423-SB-2012 (O&M)
Date of decision: 15.05.2025**

Resham Singh @ Naukha Singh

.....Appellant

Versus

State of Punjab

.....Respondent

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

Present: Mr. Vivek K. Thakur, Advocate
for the appellant.

Mr. Manvir Singh Toor, AAG, Punjab.

H.S. GREWAL J. (Oral)

Feeling aggrieved by the judgment of conviction and order of sentence dated 05.01.2012 passed by the learned Judge, Special Court, Barnala in case FIR No.63 dated 15.02.2011 under Sections 15 of Narcotics Drugs and Psychotropic Substances Act, 1985 (hereinafter 'the NDPS Act'), registered at Police Station City Barnala, the appellant has come up before this Court by filing the present appeal.

2. The case of the prosecution is that on 15.02.2011, ASI Diwan Singh alongwith other police officials while posted in Police Station City, Barnala while on government vehicle in connection with patrolling duty and checking of suspicious persons, was going from Tarksheel Chowk to Thikriwala Chowk. When they reached at mettaled road chowk, one person was seen coming carrying plastic gatta loaded on his head. On seeing the police party he at once



turned back, Investigating Officer with the help of his companions apprehended him and enquired his name and other particulars. In the meantime, Manga Singh, son of Malkiat Singh came there who was joined in the police party. Investigating Officer gave his identity to the accused and stated that he suspects some contraband in the plastic *gatta* so he intends to get his search conducted. He also apprised the accused of his right to get the search conducted in the presence of gazetted Officer or Magistrate. However, the accused reposed confidence in Investigating Officer and the Investigating Officer conducted search of the plastic *gatta* carried by the accused which led to recovery of poppy husk. Two samples of 250 grams each were separated and made two sample parcels. Remaining poppy husk on weighing came to be 9 kgs 500 grams.

3. Pursuant thereto, vide order dated 05.01.2012 passed by the learned Judge, Special Court, Barnala, the appellant was convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1000/- and further in default thereof, to undergo rigorous imprisonment for a period of three months.

4. Learned counsel for the appellant contends that he is not assailing the impugned judgment of conviction dated 05.01.2012 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 02 month and 25 days. He further prays that since the appellant is not involved in any other case and further, the FIR in question pertains to the year 2011, a lenient view may be taken while passing an order/ judgment by this Court.

5. On the other hand, learned State counsel opposes the prayer of the



appellant by way of filing of custody certificate dated 14.05.2025 submits that the learned Court below has passed a well reasoned judgment based on correct appreciation of evidence available on record. However, he does not refute the fact that the appellant is not involved in any other case.

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

7. 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 2011 and he has already faced the rigors of the trial for more than 14 years.

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.

8. 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.

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 15.02.2011 and the appellant has been suffering the agony of trial since the last more than 14 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 2011 and the appellant has faced the rigors of the trial for more than a period 14 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 05.01.2012 passed by the learned Judge, Special



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Court, Barnala, however the order of sentence dated 05.01.2012 is modified to the extent that the sentence of rigorous imprisonment for a period of one year awarded to the appellant is reduced to the period of sentence already undergone by him. However, fine is enhanced to Rs.10,000/- over and above the fine so imposed vide impugned order of sentence.

15th May, 2025

Sonia Puri

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

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