



**1332(2) IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRA-S-137-SB-2010 (O&M)
Date of Decision: 14.05.2025**

STATE OF HARYANA

...Appellant

Versus

DEVENDER AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Harkesh Kumar, AAG Haryana.

Mr. H.N. Sahu, Advocate
for the respondents.

Harpreet Singh Brar, J. (Oral)

1. Instant appeal is filed against the judgment of conviction and order on quantum of sentence dated 30.10.2009/09.11.2009 passed by learned Special Judge, Rohtak vide which the respondents have been convicted under Section 20(b)(ii)(A) of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as 'NDPS Act') and sentenced them to undergo rigorous imprisonment for 06 months each and also directed to pay fine of Rs. 10,000/- each with default mechanism in case bearing FIR No. 172 dated 20.07.2007 registered at Police Station Sadar Rohtak. In this petition, the State of Haryana is praying for enhancement of sentence from rigorous imprisonment of 06 months each awarded to both the appellants.

2. The facts of the case of the prosecution are that on 02.07.2007, SI Gurdial Singh with other police officials were present at Pakasma crossing Sonapat-Rohtak road in connection with crime detection and patrolling duty. In the meanwhile, he received a secret information that Devender and Rakesh (respondents herein) were going to village Aasan in Maruti Car bearing



registration No. HR-10-2000 with huge quantity of *charas* and if raid is conducted, then they could be red handed. Believing the secret information to be reliable, *naka* was laid and after some time a car with the aforementioned registration number was seen coming towards Rohtak side, in which two boys were sitting. On signal, they stopped the car and on interrogation, they disclosed their names as Devender and Rakesh. On the basis of suspicion personal search of the appellants and the said car was conducted. Upon personal search of appellants, a light blue colour polythene bag containing 950 grams of *charas* was recovered. Two samples each of 10 grams were separated and sealed and remaining *charas* was also sealed and FIR(supra) was registered.

3. Learned trial Court after assessing the material available on record convicted the accused-respondents under Sections 20(b)(ii)(A) of NDPS Act and sentenced them to undergo rigorous imprisonment for 06 months each with fine of Rs. 10,000/- each with default mechanism.

4. Learned State counsel contends that the learned trial Court fell into error by sentencing the accused-respondents only for rigorous imprisonment for 06 months each along with fine of Rs. 10,000/- each with default mechanism as the said sentence is based on untenable grounds. The charges against the respondents-accused stand duly proven by all the prosecution witnesses and as such, the learned Court below ought not to have awarded them such a meagre sentence and he prays that substantive sentence of rigorous imprisonment for 06 months each along with fine of Rs. 10,000/- each with default mechanism awarded to the respondents deserves enhancement.



5. *Per contra*, learned counsel for respondents supported the impugned judgment and submits that respondents-accused were correctly awarded aforesaid sentence keeping in view the fact that appellants were poor persons and the only bread earners for their family. Further they were also not previous convicts.

6. Having heard the learned counsel for the parties and after perusing the record of the case, this Court is of the considered opinion that 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, the FIR in the present case was lodged on 20.07.2007 and the respondents have been suffering the agony of trial since the last almost 18 years. It also appears that the respondents do not have any criminal antecedents.

7. The theory of reformation and rehabilitation aims at separating the criminal from the crime and compels us to look beyond the one fateful act committed by him. In a civilised society like ours, it would be truly unfortunate if an offender is not given the opportunity to realise and fully fathom his mistake and channel that awareness into making fruitful contributions in society.

8. In *Deo Narain Mandal vs. State State of UP (2004) 7 SCC 257*, the Hon'ble Supreme Court has opined 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, manner in which the offence is committed, age of the accused, should be considered while determining the quantum of



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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, the Hon'ble Supreme Court in *Ravada Sasikala vs. State of AP AIR 2017 SC 1166*, has reiterated 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 the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

10. In view of the discussion above, this Court does not find any reason to interfere with the order of sentence dated 09.11.2009 passed by learned Special Judge, Rohtak. Consequently, the present appeal is dismissed.

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

14.05.2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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