



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

CRA-S-592-SB-2007

Date of decision: 17.03.2025

SANDEEP KUMAR ALIAS DIPI

....Appellant

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vikas Malik, Advocate
for the appellant. (amicus curiae).

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This appeal has been preferred against the judgment of conviction and order on quantum of sentence dated 05.03.2007 passed by learned Judge Special Court Amritsar, whereby, the appellant was convicted and sentenced for the offence punishable under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter 'NDPS Act'), in the case stemming from FIR No.124 dated 06.06.2005 registered at Police Station, Chheharta, District Amritsar.

2. The appellant was sentenced as mentioned below:

Offence	Sentence
Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985.	Rigorous imprisonment for a period of 1 year and six months and to pay fine of Rs.500/- and in default of payment of fine, to further undergo rigorous imprisonment for two months.

3. Brief facts of the case are that on 06.06.2005 ASI Piara Singh of CIA Staff Amritsar alongwith fellow police officials were patrolling and present in the area of Grain Market, Chheharta, Amritsar, whereby they saw the



accused coming on foot, who on seeing the police party got perplexed and turned back. On checking the contents of the polythene envelope thrown by the accused, it was found to be containing 100 grams of smack. Hence the FIR (supra) was registered.

4. Learned amicus curiae for the appellant inter alia contends that the provisions of Section 50 of NDPS Act have not been complied with. There are several discrepancies in the testimony of the prosecution witnesses which creates a serious dent on the case set up by the prosecution. Further there is no compliance of Section 42 of NDPS Act and no independent witness was joined at the time of recovery which has been effected by ASI Piara Singh. As such the prosecution failed to prove the case against the appellant. He further contends that the appellant has already undergone a period of 4 months and 2 days in custody and is not involved in any other criminal case.

5. *Per contra*, learned State counsel opposes the prayer of the appellant as the learned Court below has passed a well-reasoned judgment based on correct appreciation of evidence available on record as such, he does not deserve any leniency.

6. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the appellant was convicted for being in possession of 100 gms smack attracting the offence under Section 21 of NDPS Act, for which no minimum punishment has been prescribed. As per his custody certificate he is not involved in any other case and has already undergone a total sentence of 4 months and 2 days. Since there is no minimum punishment prescribed under Section 21 of NDPS Act, 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.



7. In *Deo Narain Mandal vs. State of U.P. (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 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, 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.

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, the FIR (supra) was lodged on 06.06.2005 and the appellant has been suffering the agony of trial for



last more than 19 years. Since his conviction, he has grown into a law-abiding citizen and desires to live a peaceful life.

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

(i) The judgment dated 05.03.2007 passed by learned Judge, Special Court, Amritsar is upheld.

(ii) The order of sentence dated 05.03.2007 is modified to the extent that the sentence of rigorous imprisonment for one year and six months awarded to the appellant is reduced to the period of sentence already undergone by him.

(iii) Fine of Rs.500/- imposed upon the appellant shall remain intact. The appellant is directed to deposit the amount of fine in the trial Court within one month from the date of receipt of certified copy of this order and in case of default of payment of fine, the appellant shall be liable to be taken into custody and made to undergo simple imprisonment for one month.

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

12. High Court Legal Services Committee is directed to pay remuneration to learned *amicus curiae* for the appellant as per rules.

(HARPREET SINGH BRAR)
JUDGE

17.03.2025

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