



CRA-S-529-SB-2012

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CRA-S-529-SB-2012
Date of decision: 20.05.2025

Gian Singh

...Appellant

Versus

State of Punjab

...Respondent

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

Present : Mr. Gautam Kumar, Advocate, for
Mr. S. S. Gill, Advocate, for the appellant.

Mr. H. S. Wadhwa, DAG, Punjab.

H.S. GREWAL, J. (Oral)

1. This present appeal has been filed against the judgment of conviction and order of sentence dated 07.01.2012 passed by the learned Judge, Special Court, Patiala, whereas, appellant had been convicted in case arising out of the FIR No.49 dated 06.04.2008 under Section 18 of the NDPS Act, Police Station Julkan, Patiala, and sentenced to undergo RI for 3 years and to pay a fine of Rs. 3,000 and in default thereof RI for 3 months.

2. The case of the prosecution is that ASI Gurcharan Singh along with his police companions, in detention of crime, was present at 'T' point Chaprarh Bus Stand on main road of Devigarh. At about 12:00 noon, one person namely Gian Singh carrying a bag in his right hand was seen coming from village Chaprah and was about to alight the main road. On suspicion, ASI Gurcharan Singh intercepted and inquired him. On searching the bag carried by him 2 Kg. of Opium was recovered without any valid permit or



licence. The accused was proceeded accordingly. Pursuant thereto, vide order dated 07.01.2012 passed by the learned Judge, Special Court, Patiala, the appellant was convicted and sentenced to undergo aforesaid imprisonment.

3. Learned counsel for the appellant contended that he is not assailing the impugned judgment of conviction dated 07.01.2012 on merits and restricts his prayer qua modification of the order on quantum of sentence, to the period as already undergone by the appellant because he has already undergone an actual sentence of 1 year 07 months & 07 days out of the total sentence of 03 years and is not involved in any other case under the NDPS Act. He further prays that since the FIR in question pertains to the year 2008, and the appellant has now 73 years of age, a lenient view may be taken while passing an order 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 19.05.2025 on the ground that the learned Court below has passed a well reasoned judgment based on correct appreciation of evidence available on record.

5. The appellant has been convicted for having in possession of 2 Kg. of Opium attracting the offence of Section 18 of the NDPS Act, for which no minimum punishment has been prescribed. Moreover, the FIR in the present case pertains to the year 2008 and he has already faced the rigors of the trial for about 17 years.

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

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 06.04.2008 and the appellant has been suffering the agony of trial for the last 17 years. Since there is no minimum punishment prescribed under Section 18 of the NDPS Act and keeping in view the fact the FIR is of the year 2008 and the appellant has faced the rigors of the trial for more than a period of 17 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 07.01.2012 passed by the learned Special Court, Patiala, however the order of sentence dated 07.01.2012 is modified to the extent that the sentence of rigorous imprisonment for a period of 03 years imposed upon the appellant is reduced to the period of sentence already undergone by him. However, the amount of fine imposed upon the appellant shall intact.

(H.S. GREWAL)
JUDGE

20.05.2025

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