



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

CRA-S-1163-2022 (O&M)
Date of decision: 01.04.2025

State of Union Territory Chandigarh

....Appellant

Versus

Navjot Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kanwarpal Singh, Additional Public Prosecutor with
Mr. Sanal Kumar, Advocate and
Mr. Hardeep Singh, Advocate
for the appellant-U.T. Chandigarh.

HARPREET SINGH BRAR, J. (ORAL)

1. The present appeal is preferred against the impugned judgment and order of sentence dated 06.01.2020 passed by learned Special Court, Chandigarh whereby the respondent- accused was convicted for the offence punishable under Section 21(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter 'NDPS Act'), in the case stemming from FIR No.124 dated 09.05.2016 registered at Police Station Sector 39, Chandigarh.

2. The respondent was sentenced as mentioned below:

Offence	Sentence
Section 21(b) of the NDPS Act	Imprisonment for the period of custody already undergone by him i.e. 26 days (09.05.2016 to 03.06.2016) and a fine of Rs.10,000/-

3. Briefly, the facts of the case, as alleged, are that on 09.05.2016, ASI Satvinder alongwith other police officials laid a *naka* near light point Sector 40/41, Chandigarh. The respondent was seen coming from one side of



the road and upon seeing the police party, he turned and started moving towards the market. Suspicious of his behaviour, the police personnel tried to apprehend him. The respondent pushed the ASI and pulled out a polythene bag from the right pocket of his pants. He tried to throw the said bag away but was caught by the police. A search of the polythene bag caused recovery of 14 grams of heroin. Upon completion of necessary formalities, the FIR(*supra*) was registered against the respondent.

4. On assessing all the material available on the record, the learned trial Court convicted the respondent under Section 21 (b) of the NDPS Act vide judgment dated 06.01.2020 and he was sentenced as mentioned above. Aggrieved by the quantum of sentence, the State has preferred the present appeal.

5. Learned State counsel *inter alia* submits that the learned Court below has fallen into grave error in sentencing the respondent to the custody already undergone by him which is a mere 26 days. The guilt of the respondent stands adequately proved as he was found in possession of 14 grams of heroin. As such, the respondent ought to have been sentenced to 10 years of imprisonment and a higher fine as provided by Section 21(b) of the NDPS Act. The learned trial Court has taken lenient view while passing the order of sentence even though the prosecution has proved the case beyond reasonable doubt. However, in order to create a deterrent effect, it is of the utmost importance to enhance the sentence awarded to him.

6. Having heard the learned State counsel and after perusing the record with his able assistance, it transpires that the respondent was convicted under Section 21(b) of the NDPS Act for being in possession of 14 grams of



heroin, which is much lesser than the commercial quantity for the said contraband.

7. Unfortunately, of late the State has witnessed a significant rise in consumption of drugs. While strict steps must be taken to ensure that such harmful substances do not make their way to the youth, we must also, as a society, expand our knowledge with respect to addiction. With the advancement in science, it has come to the fore that addiction is a disease that seriously alters brain function by impairing one's decision making skills by causing severe withdrawal effects. Seeing addiction as a disease and not a choice would help remove stigma around the issue and motivate more people to seek medical attention and recover from it. In that vein, the learned trial Court has taken into account the mitigating factors, such as the financial condition and familial responsibilities of the respondent as well as the fact that he has successfully participated in a de-addiction programme, to sentence him to the custody already undergone by him i.e. 26 days.

8. 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. It is rather commendable that the learned trial Court has endeavoured to inculcate this spirit as reflected in the order of sentence. Moreover, no minimum punishment has been prescribed under Section 21(b) of the NDPS Act and the fine imposed has already been paid by the respondent.

9. 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 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.

10. Further, the Hon'ble Supreme Court in *Ravada Sasikala vs. State of Andhra Pradesh 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.

11. Additionally, a perusal of the judgment of conviction passed by the learned trial Court indicates no perversity and the same is based on correct appreciation of evidence available on record.

12. Consequently, in view of the discussion above, the present appeal is dismissed. The impugned judgment of conviction as well as the order of sentence dated 06.01.2020 passed by the learned Special Court, Chandigarh, are hereby upheld.



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

(HARPREET SINGH BRAR)
JUDGE

01.04.2025

Neha

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