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

**CRA-S-243-2025 (O&M)
Date of decision: 23.01.2025**

Arvind Sharma @ Sonu

... Appellant

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Parampreet Singh Paul, Advocate
for the appellant.

Mr. Subhash Godara, Addl. A.G., Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. Present appeal has been preferred against the judgment of conviction dated 15.01.2025 and order on quantum of sentence of even date passed by learned Judge, Special Court, Rupnagar, in FIR No.49 dated 14.07.2022 under Sections 21 & 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station Sadar Rupnagar, vide which the appellant was convicted and sentenced under Section 21(b) of NDPS Act and was ordered to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.5,000/- along with default



mechanism.

2. Brief facts of the case are that on 17.07.2022, ASI Nasim Khan along with Sr. Constable Dharvinder Kumar and PHG Rampal was going from the bridge of Bhakhra Canal of village Ghanuli to Village Alipur side via strip of Bhakhra Canal on a private vehicle in connection with patrol duty and checking of bad elements and when they reached near Village Alipur at about 07:30 p.m., a silver coloured Alto car with two persons in it was seen, parked on right side of the strip of Bhakhra Canal. On the basis of suspicion, they were apprehended by the police party. On inquiry, the person, who was sitting on the driver seat of the car, disclosed his name as Arvind Sharma @ Sonu and the person, who was sitting on the conductor seat, introduced himself as Karnail Singh @ Sonu. On checking of the car, a transparent polythene envelop containing white brown colour powder appearing to be heroin, was found lying near the gear leaver of the car. Thereafter, ASI Nasim Khan recovered the same and sent a ruqa for registration of case under Sections 21/61/85 of NDPS Act against both the accused to the police station through PHG Ram Pal, with a request to send a competent police official at the spot to conduct the investigation. Subsequently, a formal FIR was registered against the accused and SI Gurmukh Singh, Incharge Police Post Ghanauli along with PHG Baldev Singh reached at the spot in government vehicle. ASI Nasim Khan apprised SI Gurmukh Singh about the facts of the case and handed over carbon copy of the ruqa to him for conducting further investigation. Both the



accused were also handed over to him.

3. The appellant was convicted vide judgement of conviction dated 15.01.2025 by learned trial Court and was sentenced to undergo R.I. for a period of six months and a fine of Rs.5,000/- along with default mechanism.

4. Learned counsel for the appellant contends that he is not assailing the impugned judgment of conviction dated 15.01.2025 on merits and restricts his prayer to modification of the order on quantum of sentence, to that of the sentence already undergone by the appellant, as out of rigorous imprisonment of six months awarded by learned trial Court, the appellant has already undergone a period of 25 days and is not involved in any other criminal activity.

5. *Per contra*, learned State counsel has filed the custody certificate dated 22.01.2025 of the appellant in the Court today, which is taken on record and opposes the prayer of the appellant, as learned trial Court has passed a well reasoned judgment based on correct appreciation of evidence available on record and as such, he does not deserve any leniency.

6. I have heard learned counsel for the parties and perused the record with their able assistance.

7. In *Deo Narain Mandal Vs. State of UP, (2004) 7 SCC 257*, a three Judges Bench of 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, 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. Further, a two Judges Bench of 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 conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

8. A perusal of the judgment of conviction passed by learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Moreover, learned counsel for the appellant has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua quantum of sentence.



9. The FIR in the present case was lodged on 14.07.2022 and the appellant has been suffering the agony of trial for the last more than two and half years. Since his conviction, the appellant has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate dated 22.01.2025, the appellant is not involved in any other case and has undergone actual sentence of 25 days, out of total sentence of 06 months in the instant case.

10. Accordingly, 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. Consequently, the present appeal is disposed of in the following terms:-

- (i) The judgment of conviction dated 15.01.2025 passed by learned Judge, Special Court, Rupnagar is upheld, however, the order of sentence of even date is modified to the extent that the sentence of rigorous imprisonment for six months along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.
- (ii) The sentence of fine of an amount of Rs.5,000/- imposed upon the appellant by learned trial Court is increased to Rs.10,000/-. The appellant is directed to deposit the increased amount of fine with learned 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 rigorous imprisonment for one month.

12. All the pending miscellaneous application(s), if any, shall also stand disposed of.

23.01.2025
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**[HARPREET SINGH BRAR]
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No