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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision:21.04.2025

CRA-S-2311-SB-2012
1. JOGINDER SINGH

..Appellant

Versus

STATE OF PUNJAB

..Respondent

and

CRA-S-2492-SB-2012
2. LAKHWINDER SINGH

..Appellant

Versus

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kamal Nasula, Advocate for the appellant in
CRA-S-2311-2012.
Mr. Sagar Bathle, Advocate for
Mr. Balram Prashar, Advocate
for the appellant in CRA-S-2492-SB-2012.

Mr. Nitesh Sharma, DAG Punjab.

HARPREET SINGH BRAR, (ORAL).

1. This order of mine shall dispose of both the above-mentioned appeals as both are arising from the same FIR. For the sake of brevity, facts are borrowed from *CRA-S-2311-SB-2012* titled as "*Joginder Singh Vs. State of Punjab*".

2. The prayer in the present appeal is to set aside the judgment of conviction dated 25.07.2012 and order of sentence dated 27.07.2012 passed by learned Judge, Special Court, Ferozpur whereby the

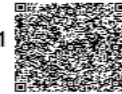


appellants were convicted and sentenced for the offence punishable under Sections 18 (c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'NDPS Act'), in the case stemming from FIR No.314 dated 29.08.2007 registered under Section 18, 29/61/85 of NDPS Act at Police Station Saddar, Fazilka.

3. The appellants were sentenced for keeping in their possession 2 Kgs of opium, as mentioned below:

Name of appellant	Offence	Sentence
Lakhwinder Singh	Section 18 (c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.	Rigorous imprisonment for a period of 1 year and to pay fine of Rs.10,000/- and in default of payment of fine to further undergo three months RI.
Joginder Singh	Section 18 (c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.	Rigorous imprisonment for a period of 1 year and to pay fine of Rs.10,000/- and in default of payment of fine to further undergo three months RI.

4. Learned Counsel for the appellants submits that they are not assailing the impugned judgment of conviction dated 25.07.2012 passed

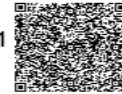


by learned Special Court, Ferozepur on merits and restricts their prayer to modification of the order on quantum of sentence dated 27.07.2012 to that of sentence already undergone by the appellants. As per the custody certificate, appellant-Joginder Singh has undergone a period of 03 months and 26 days and appellant-Lakhwinder Singh has undergone a period of 2 months and 30 days. Appellant-Joginder Singh is convicted in one more case and one case is pending and appellant-Lakhwinder Singh is convicted in one more case.

5. Per contra, learned State counsel opposes the prayer of the appellants as the learned Court below has passed a well-reasoned judgment based on correct appreciation of evidence available on record as such, they do 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 appellants were convicted for being in possession of 2 kgs of opium, which falls under the purview of Section 18 (c) of NDPS Act. As per the custody certificate, appellant-Joginder Singh has undergone a period of 03 months and 26 days and appellant-Lakhwinder Singh has undergone a period of 2 months and 30 days out of the total sentence of one year. Since there is no minimum punishment prescribed under Section 18 (c) NDPS Act, for the non-commercial quantity this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the appellants is reduced to the period already undergone by them.

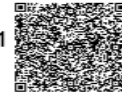
7. In *Deo Narain Mandal vs. State of U.P. (2004) 7 SCC 257*, the Hon'ble Supreme Court has opined that awarding of sentence is not a



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 29.08.2007 and the appellants have been suffering the agony of trial for last more than 17 years. Since their



conviction, they have grown into law-abiding citizen and desire to live a peaceful life.

10. Therefore, in view of the discussion above, both appeals are disposed of in the following terms:-

(i) The judgment dated 25.07.2012 passed by the learned Judge Special Court, Ferozpur is upheld.

(ii) The order of sentence dated 27.07.2012 is modified to the extent that the sentence of rigorous imprisonment for one year and fine of Rs.10,000/- each along with default mechanism awarded to the appellants is reduced to the period of sentence already undergone by them.

11. A copy of this order be also placed on the file of the connected case.

21.04.2025

Poonam

(HARPREET SINGH BRAR)
JUDGE

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