



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

CRA-S-2970-SB-2009
Date of decision: 09.04.2025

Satbir Singh @ KalaAppellant

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Chandan Singh Rana, Legal Aid Counsel
for the appellant.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The prayer in the present appeal is to set aside the judgment of conviction and order of sentence dated 03.12.2009 passed by learned Judge, Special Court, Mansa, whereby, the appellant was convicted and sentenced for the offence punishable under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter 'NDPS Act'), in the case stemming from FIR No.60 dated 28.03.2005, under Section 18 of the NDPS Act at Police Station Sadar Mansa.

2. The appellant was sentenced as mentioned below:-

Offence	Sentence
Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985	Rigorous imprisonment for a period of one year and to pay fine of Rs.5,000/- and in default of payment of fine, to further undergo rigorous imprisonment for three months.

3. Brief facts of the case are that on 28.03.2005, a police party headed by ASI Hardip Singh was on patrolling duty and was going towards the area of Police Station Sadar Mansa and when they were going from the side of village Khokhar Kalan towards village Ramdittewala via link road, they saw



CRA-S-2970-SB-2009

-2-

the accused/appellant coming from the opposite direction and on seeing the police party, he became perplexed. The appellant was apprehended with 01 Kg 220 grams of *opium* and two samples of 10 grams each were drawn from the bag and the same were then sent to the chemical examiner. Subsequently, FIR (*supra*) was registered under Section 18 of the NDPS Act.

4. Learned legal aid counsel for the appellant *inter alia* contends that the learned Court below has fallen into grave error in convicting the appellant, as his guilt has not been proved beyond reasonable doubt. Further, independent witness, namely, Varinder Kumar who was associated with the police party, has not been examined. He further submits that there is a delay of 03 days in sending the representative sample to the office of Chemical Examiner and also there are major discrepancies in the statements of the official witnesses which creates serious doubt in the case set up by the prosecution. Lastly, he submits that the appellant has already undergone a period of 04 months and 22 days in custody and is involved in one more case under the NDPS Act in which he is on bail.

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 and further submits that the appellant is involved in one more case under the NDPS Act and as such, he does not deserve any leniency. However, he could not controvert the fact that the appellant is on bail in the said case.

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 01 kg 220 grams of *opium*, i.e. intermediate quantity,



attracting the offence of Section 18 of the 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 an actual sentence of 04 months and 22 days out of total sentence of 01 year, in the instant case. Since there is no minimum punishment prescribed under Section 18 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

**CRA-S-2970-SB-2009****-4-**

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 28.03.2005 and the appellant has been suffering the agony of trial for last more than 20 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 03.12.2009 passed by the learned Judge, Special Court, Mansa, is upheld.

(ii) The order of sentence dated 03.12.2009 is modified to the extent that the sentence of rigorous imprisonment for 01 year and fine along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.

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

12. The High Court Legal Services Authority is directed to pay remuneration to the learned *Amicus Curiae*/Legal Aid Counsel, as per rules.

(HARPREET SINGH BRAR)
JUDGE

09.04.2025*Neha*

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