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

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CRA-S-1353-SB-2012
Date of decision : 09.07.2025

Balbir Singh @ Bira

... Appellant

Versus

State of Punjab

.. Respondent

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

Present:- Mr. Prince Goyal, Advocate for the appellant (through VC).

Mr. Hardeep Singh Wadhwa, DAG, Punjab.

H.S. Grewal, J.(Oral)

The present appeal has been preferred by the appellant against the judgment of conviction and order of quantum of sentence dated 03.04.2012, passed by learned Special Judge, Hoshiarpur, in FIR No.131 dated 19.07.2008, registered at Police Station Mahilpur, District Hoshiarpur, whereby he has been convicted under Section 21 of the NDPS Act and sentenced to undergo rigorous imprisonment for a period of 09 months, to pay a fine of Rs.2,500/- and in default thereof, to undergo further rigorous imprisonment for 03 months.

2. The case of the prosecution is that on 19.07.2008, the appellant was apprehended while having in possession of 70 grams smack in the area of village Lalpur Panjora. Pursuant thereto, vide impugned order and order of sentence dated 03.04.2012 passed by the learned Special Judge, Hoshiarpur, the appellant was convicted and sentenced to undergo aforesaid imprisonment.



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3. Learned counsel for the appellant contended that he is not assailing the impugned judgment of conviction dated 03.04.2012 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 03 months & 01 day out of the total sentence of 09 months 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, a lenient view may be taken while passing an order/ judgment 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 08.07.2025 on the ground that the learned Court below has passed a well reasoned judgment based on correct appreciation of evidence available on record. As per the custody certificate, the appellant has already undergone an actual sentence of 03 months & 01 day out of the total sentence of 09 months

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

6. The appellant has been convicted for having in possession of 70 grams smack which falls in the category of non-commercial quantity attracting the offence of Section 21 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 more than 16 years.

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



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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.

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10. Since the FIR in the present case was registered on 19.07.2008 and the appellant has been suffering the agony of trial since the last 16 years. Since there is no minimum punishment prescribed under Section 21 of the NDPS Act and keeping in view the fact that the appellant has faced the rigors of the trial for more than a period 16 years, he has already undergone an actual sentence of 03 months & 01 day out of the total sentence of 09 months and later stage, he has kept good conduct because he is not involved in any other case under the NDPS Act 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 03.04.2012 passed by the learned Special Judge, Hoshiarpur, however the order of sentence dated 03.04.2012 is modified to the extent that the sentence of rigorous imprisonment for a period of 09 months 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 remain the same.

09.07.2025
A.Kaundal

(H.S.GREWAL)
JUDGE

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