



**1344 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRA-S-411-SB-2010

Date of decision: 15.05.2025

SURJIT SINGH

...APPELLANT

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Saroj Kumari, Advocate as *amicus curiae*
for the petitioner.

Mr. Rishabh Singla, AAG, 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 02.02.2010 passed by learned Judge, Special Court, Faridkot, whereby, the appellant was convicted and sentenced for the offence punishable under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter 'NDPS Act'), in the case stemming from FIR No.269 dated 04.10.2007, under Section 22 of the NDPS Act at Police Station Sadar Faridkot.

2. The appellant was sentenced as mentioned below:

Offence	Sentence
Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985	Rigorous imprisonment for a period of one year and to pay fine of Rs.1,000/- and in default of payment of fine, to further undergo RI for one month.

3. Brief facts of the case are that on 04.10.2007, when ASI Sucha Ram along with other police officials was going to village Ratti



Rori and was present at a distance of 100 yards, the appellant, carrying a polythene bag in his hand was seen standing under a tree. On seeing the police, he tried to run away. On suspicion, he was apprehended. Upon search of plastic bag, 14 packets each containing 100 tablets of Microlit were recovered. Subsequently, FIR (*supra*) was registered under Section 22 of the NDPS Act.

4. Learned *amicus curiae* for the appellant *inter alia* contends that prosecution has miserably failed to prove the conscious possession of the appellant over the alleged contraband and the entire case of the prosecution hinges upon the testimonies of official witnesses. He further contends that during the course of investigation or at the time of alleged recovery, no independent witness was joined. Furthermore, ASI Sucha Ram had conducted the search of the appellant, as such, there is complete non-compliance of Section 50 of NDPS Act. Learned counsel submits that no report under Section 42 of the NDPS Act was sent to the higher officers. Further, neither the CFSL form was prepared at the spot nor the same was deposited before the SHO. Lastly, he submits that the appellant has already undergone total custody period of 02 months and 01 day, out of total sentence of one year, in the instant case and he is not involved in any other case.

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 as such, he does 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 appellant was



convicted for being in possession of intoxicants of Microlit, which falls under the purview of Section 22 of NDPS Act. As per his custody certificate, he has already undergone an actual sentence of 02 months and 01 day out of total sentence of one year, in the instant case. Since there is no minimum punishment prescribed under Section 22 of 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 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 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 04.10.2007 and the appellant has been suffering the agony of trial for last more than 17 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 02.02.2010 passed by the learned Judge, Special Court, Faridkot is upheld.

(ii) The order of sentence of dated 02.02.2010 is modified to the extent that the sentence of rigorous imprisonment for one year and fine along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.

11. The High Court Legal Services Authority is directed to pay remuneration to the learned *Amicus Curiae* as per rules.

May 15, 2025
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(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |