

**CRA-S-1920-SB-2012****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****209****CRA-S-1920-SB-2012
Date of Decision: 19.08.2025****BHUPINDER SINGH @ BHINDA****... APPELLANT****VERSUS****STATE OF PUNJAB****... RESPONDENT****CORAM : HON'BLE MR. JUSTICE H.S.GREWAL****Present:- Mr. Rahul Vats, Advocate for the appellant.****Mr. Amit Rana, Sr.DAG, Punjab.****H.S. Grewal, J.(Oral)**

1. Feeling aggrieved by the judgment of conviction and order of sentence dated 05.06.2012 passed by the learned Judge, Special Court, Ludhiana in case FIR No.65 dated 04.06.2004 under Section 15 of Narcotics Drugs and Psychotropic Substances Act, 1985 (hereinafter 'the NDPS Act'), registered at Police Station City Dehlon District Ludhiana Punjab, the appellant has come up before this Court by filing the present appeal.

2. The case of the prosecution is that on 04.06.2004, the appellant was found to be in possession of 30 Kgs of poppy husk without any valid permit or licence. Pursuant thereto, vide order dated 05.06.2012 passed by the learned Judge, Special Court, Ludhiana, the appellant was convicted and sentenced to undergo rigorous imprisonment for a period of 01 years and to pay



a fine of Rs. 5000/- and further in default thereof, to undergo rigorous imprisonment for a period of two months.

3. Learned counsel for the appellant contends that he is not assailing the impugned judgment of conviction dated 05.06.2012 on merits and restricts his prayer qua modification of the order on quantum of sentence, to the period as already undergone by the appellant, as he has already undergone a sentence of 02 months and 25 days out of awarded sentence of 01 year. He further prays that since the appellant is not involved in any other case and the FIR in question pertains to the year 2004, a lenient view may be taken while passing an order on quantum by this Court.

4. On the other hand, learned State counsel opposes the prayer of the appellant by way of filing of custody certificate and submits that the Appellate Court has passed a well reasoned judgment based on correct appreciation of evidence available on record. However, he does not refute the fact that the appellant is not involved in any other case.

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 30 Kgs of poppy husk which falls in the category of non-commercial quantity attracting the offence of Section 15 of the NDPS Act, for which no minimum punishment has been prescribed. Moreover, the FIR in the present case pertains to the year 2004 and he has already faced the rigors of the trial for more than 21 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 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-Judge 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.

10. As far as the question of quantum of sentence is concerned, it is worthwhile to note that the occurrence in this case pertains to the year 2004. The right to speedy and expeditious trial is one of the most valuable and cherished rights guaranteed under the Constitution. The appellant has already suffered the agony of protracted trial, spanning over a period of more than 21 years and has been in the corridors of the court for this prolonged period. He remained incarcerated for 02 months and 25 days. He is living peacefully for last more than two decades as no report contrary to that has been received. In view of the facts noted above, the case of the appellant deserves to be dealt with leniency. The appellant also deserves the benefit of the consistent view taken by this court in this regard. Thus, guided by the judicial pronouncements made by the Hon'ble Supreme Court in the cases of *Haripada Das Vs. State of West Bangal* reported in (1998) 9 SCC 678 and *Alister Anthony Pereira vs. [2023:RJ-JD:28174] (5 of 5) [CRLR-755/2003] State of Maharashtra* reported in 2012 2 SCC 648 and considering the facts and circumstances of the case, age of appellant, his status in the society and the fact that he faced financial hardship and had to go through mental agony, this court is of the view that ends

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of justice would be met, if sentence imposed upon the appellant is reduced to the one already undergone by him.

11. Accordingly, judgment of conviction and order of sentence dated 05.06.2012 passed by the learned Judge, Special Court, Ludhiana is affirmed but the quantum of sentence awarded by the Court concerned under Section 15 of Narcotics Drugs and Psychotropic Substances Act, 1985, is modified to the extent that the sentence he has undergone till date would be sufficient and justifiable to serve the interest of justice. The appellant is on bail. He need not surrender. His bail bonds are discharged. However, the fine is enhanced to Rs. 5,000/- over and above the fine so imposed vide impugned order of sentence.

12. With these modifications, the present appeal is disposed of.

19.08.2025
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(H.S.GREWAL)
JUDGE

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