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264 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRA-S-2527-SB-2012 (O&M)  
Date of decision: 06.05.2025

Shakeel

.....Appellant

**Versus**

State of Punjab

.....Respondent

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

**Present:** Mr. Ashok Giri, Advocate and  
Mr. Ravi Rana, Advocate  
for the appellant.

Mr. Manvir Singh Toor, AAG, Punjab.

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**H.S. GREWAL J. (Oral)**

Feeling aggrieved by the judgment dated 08.06.2012 passed by learned Judge, Special Court, Jalandhar whereby the appellant has been convicted and sentenced under Section 20(b) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act'), to undergo rigorous imprisonment for a period of 05 years and to fine of Rs.10,000/- and further in default thereof, to undergo rigorous imprisonment for six months in case FIR No.86 dated 10.05.2011 under Sections 20, 61, 85 of NDPS Act, 1985 registered at Police Station Nakodar, District Jalandhar, the appellant has come up before this Court by way of filing of the present appeal.

2. The case of the prosecution is that the police party while patrolling on private motor cycle, reached Mohalla Rehrwan at about 5.15 p.m., they saw a clean-shaven person coming from the side of Dera of Baba Lal Badshah, Nakodar, holding one heavy polythene bag in his right hand. On suspicion he



was nabbed by ASI Harjit Singh with the help of police officials. On enquiry, he disclosed his name as Shakeel son of Bashir. An offer was made to the appellant to be searched before a Gazetted Officer or a Magistrate. However, he reposed confidence on the Investigating Officer and was searched by ASI-Harjit Singh. The polythene bag carried by him was found to be containing *charas* out of which 2 samples of 10 grams were separated and the remaining quantity of contraband came out to be 980 grams. However, the recovery of one kg of *charas* or more of that, falls in the category of commercial quantity.

3. Thereafter, upon conclusion of the trial, the appellant/accused was convicted by the Judge Special Court, Jalandhar vide impugned order 08.06.2012 and was sentenced to undergo rigorous imprisonment as enumerated above.

4. Learned counsel for the appellant also submits that the appellant has been suffering the agony of trial since 10.05.2011 as the appeal is also an extension of trial. He is not involved in any other criminal case since the suspension of his sentence by this Court vide order dated 25.03.2013 during the pendency of present appeal and it would be just and expedient to reduce the sentence awarded to the appellant by the learned Judge, Special Court to the period as already undergone, as the appellant is a law-abiding citizen and has reformed himself after his conviction. Learned counsel for the appellant states that without referring to the merits of the case, he prays for reduction of sentence while taking a lenient view on the ground that the appellant is not involved in any other case and has not indulged in any such activity, even after his conviction.



5. At this stage, counsel for the appellant submits that he is not assailing the judgment of conviction on merits, rather restricts his prayer qua modification of the order of sentence to the period already undergone.

6. On the other hand, learned State counsel opposes the prayer of the appellant by way of filing of custody certificate dated 06.05.2025 on the ground that the Special Court concerned has passed a well-reasoned judgment after taking into consideration the entire evidence and the material available on record and there is no perversity or illegality in the findings returned by it. He further submits that the appellant is not involved in any other case.

7. A two Judge Bench of the Hon'ble Supreme Court in ***Mohd. Giasuddin Vs. State of AP, AIR 1977 SC 1926***, speaking through Justice V.R. Krishna Iyer, has observed as under:-

*"Crime is a pathological aberration. The criminal can ordinarily be redeemed and the state has to rehabilitate rather than avenge. The sub-culture that leads to antisocial behaviour has to be countered not by undue cruelty but by reculturization. Therefore, the focus of interest in penology in the individual and the goal is salvaging him for the society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today vies sentencing as a process of reshaping a person who has deteriorated into criminality and the modern community has a primary stake in the rehabilitation of the offender as a means of a social defence. Hence a therapeutic, rather than an 'in terrorem' outlook should prevail in our criminal courts, since brutal incarceration of the person merely produces laceration of his mind. If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries."*

8. 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.

9. 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.

10. A perusal of the judgment of conviction passed by the learned Judge, Special Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. 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 period already undergone by the appellant.



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11. Besides the present case, the appellant has not been involved in any other case. Considering this fact that FIR is of the year 2011 and the appellant has already faced the rigors of trial and the fact that he has undergone 01 year 07 months and 02 days of custody, therefore, while taking a lenient view in the present case, I deem it fit to reduce the sentence awarded to the appellant to the period already undergone.

12. In view of above, the present appeal is **disposed of** by upholding the judgment of conviction dated 08.06.2012 passed by the learned Judge, Special Court, Jalandhar. However the order of sentence dated 08.06.2012 is modified to the extent that the sentence of rigorous imprisonment for a period of 05 years and fine along with default clause awarded to the appellant is reduced to the period of sentence already undergone by him

13. The present appeal is disposed of accordingly.

**06<sup>th</sup> May, 2025**

*Sonia Puri*

**(H.S. GREWAL)  
JUDGE**

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