

2025:PHHC:125929



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

201

CRA-S-2594-SB-2011
Date of Decision: 12.09.2025

SAWROOP SINGH

... Petitioner

VERSUS

STATE OF HARYANA

... Respondents

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

Present: Mr. Deepender Singh, Advocate for the appellant.

Mr. Amrik Narwal, DAG, Haryana.

H.S. GREWAL, J. (ORAL)

Feeling aggrieved by the judgment of conviction and order of sentence dated 09.09.2011 passed by the learned Addl. Sessions Judge, Gurgaon in case FIR No.235 dated 01.12.2010 under Section 376 and 511 of IPC, registered at Police Station Pataudi, the appellant has come up before this Court by filing the present appeal.

2. The case of the prosecution is that on 26.10.2010, the appellant was booked for attempting to commit rape upon the prosecutrix, who is daughter of the complainant and was 10 years old at that point of time. Pursuant thereto, vide order dated 09.09.2011 passed by the learned Addl. Sessions Judge, Gurgaon, the appellant was convicted and sentenced to undergo rigorous imprisonment for a period of 05 years and to pay a fine of Rs.2,000/- and in default thereof, to further 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 09.09.2011 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 years 04 months and 02 days out of the awarded sentence of 05 years. He further prays that since FIR in question pertains to the year 2010 and the petitioner was convicted in the year 2011 and as of now, he is about 57 years old. He further submits that the petitioner has remained out of job also due to the said FIR and has faced financial hardships as well as rigours of trial for a considerable long period, hence, 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 dated 11.09.2025 and submits that the Court below 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 attempting rape upon a minor girl (prosecutrix), for which no minimum punishment has been prescribed. Moreover, the FIR in the present case pertains to the year 2010 and he has already faced the rigors of the prosecution for more than 14 years and had also lost his job due to the instant case.

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 that 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 realize 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 his prayer only *qua* modification in the order on 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 2010. The right to speedy and expeditious trial is one of the most valuable and cherished rights of an accused guaranteed under the Constitution. The appellant has already suffered the agony of protracted trial/prosecution, spanning over a period of more than 14 years and has been in the corridors of the Court for this prolonged period. He remained incarcerated for 02 years 04 months and 02 days. He has been living peacefully for the last approximately 14 years 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 Pareira Vs. 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 of justice would sufficiently be met, if sentence imposed upon the appellant is reduced to the one already undergone by him.

11. Accordingly, judgment of conviction dated 09.09.2011 passed by the then learned Addl. Sessions Judge, Gurgaon is affirmed but the order of even date passed on quantum of sentence awarded by the Court concerned under Section 376 read with Section 511 of IPC is hereby modified and reduced to the period of sentence already undergone by the appellant till date which would be sufficient and justifiable to serve the interest of justice. The appellant is on bail. He need not surrender. His bail/surety bonds are discharged. However, the amount of fine is enhanced from Rs.2000/- to Rs.10,000/-. The appellant is directed to deposit the enhanced amount of fine before the trial Court/Duty Magistrate within a period of one month from today, failing which, he shall be liable to be taken into custody to undergo imprisonment as per the default clause passed by the trial Court in its judgment dated 09.09.2011.

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

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

14. The Chief Judicial Magistrate, Gurgaon is directed to initiate appropriate proceedings against the appellant, if the enhanced amount of fine is not deposited within the stipulated time.

SEPT. 12, 2025.

Rajender

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

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No