

2025:PHHC:123834



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

204

CRA-S-2270-SB-2011 (O&M)

Date of Decision: 10.09.2025

JOGINDER PAL AND ANOTHER

... Appellants

VERSUS

STATE OF PUNJAB

... Respondent

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

Present: Mr. H.S. Bedi, Advocate
for the appellants.

Mr. Rishab Singla, AAG, Punjab.

H.S. GREWAL, J. (ORAL)

Feeling aggrieved by the judgment of conviction and order of sentence dated 19.08.2011 passed by the learned Judge, Special Court, Ludhiana in case FIR No.216 dated 04.11.2006 under Section 15 of Narcotics Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the Act'), registered at Police Station Sahnewal, Ludhiana the appellants have come up before this Court by filing the present appeal.

2. The case of the prosecution is that on 03.11.2006, the appellants were found to be in possession of 25 Kg of poppy husk. Pursuant thereto, vide order dated 19.08.2011 passed by the learned Judge, Special Court, Ludhiana, the appellants were convicted and sentenced to undergo rigorous imprisonment for a period of 2 years and to pay a fine of Rs.20,000/- each and in default thereof, to undergo rigorous imprisonment for a period of three months.

3. Learned counsel for the appellants contends that he is not assailing the impugned judgment of conviction dated 19.08.2011 on merits and restricts his prayer qua modification of the order on quantum of sentence, to the period as already undergone by the appellants, as they have already undergone a sentence of 05 months and 14 days excluding remissions out of the awarded sentence of 2 years. He further prays that since FIR in question pertains to the year 2006, 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 appellants by way of filing of custody certificates 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 appellants are 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 appellants have been convicted for having found in possession of 25 Kg of poppy husk attracting the offence of Section 15 of the Act, for which no minimum punishment has been prescribed. Moreover, the FIR in the present case pertains to the year 2006 and they have already faced the rigors of the prosecution for approximately 19 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 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 appellants 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 appellants.

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 2006. The right to speedy and expeditious trial is one of the most valuable and cherished rights of an accused guaranteed under the Constitution. The appellants have already suffered the agony of protracted trial/prosecution, spanning over a period of approximately 19 years and have been in the corridors of the Court for this prolonged period. They remained incarcerated for 05 months and 14 days excluding remissions. They have been living peacefully for the last 19 years as no report contrary to that has been received. In view of the facts noted above, the case of the appellants deserves to be dealt with leniency. The appellants also deserve 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 Bengal*** 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 appellants, their status in the society and the fact that they 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 appellants is reduced to the one already undergone by them.

11. Accordingly, judgment of conviction dated 19.08.2011 passed by the then learned Judge, Special Court, Ludhiana is affirmed but the order of even date passed on quantum of sentence awarded by the Court concerned under Section 15 of the Act is hereby modified and reduced to the period of sentence already undergone by the appellants till date which would be sufficient and

justifiable to serve the interest of justice. The appellants are on bail. They need not surrender. Their bail/surety bonds are discharged. However, the amount of fine is enhanced from Rs.20,000 to Rs.50,000/- each. The appellants are directed to deposit the enhanced amount of fine before the trial Court/Duty Magistrate within a period of one month from today, failing which, they will be liable to be taken into custody to undergo imprisonment as per the default clause passed by the trial Court in its judgment dated 19.08.2011.

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, Ludhiana is directed to initiate appropriate proceedings against the appellants, if the enhanced amount of fine is not deposited within the stipulated time.

SEPT. 10, 2025.

Rajender

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

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No