



CRA-S-2209-SB-2011 (O&M) -1-

204 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRA-S-2209-SB-2011 (O&M)  
DATE OF DECISION: 21.08.2025

CHAMKAUR SINGH

.....Appellant

Versus

STATE OF PUNJAB

.....Respondent

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

Present: Mr. Harpal Singh Sandhu, Advocate  
for the appellant.

Mr. Rishabh Singla, AAG, Punjab.

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

Feeling aggrieved by the judgment and order dated 02.09.2011 passed by learned Judge, Special Court, Faridkot in FIR No.72 dated 26.06.2009 under Section 15 of Narcotic Drugs and Psychotropic Substance Act, 1985 registered at Police Station Sadar Kotkapura whereby the appellant has been convicted and sentenced to undergo rigorous imprisonment for a period of three months alongwith fine of Rs.1000/- and further in default of payment of fine, to undergo imprisonment for a period of 15 days under Section 15 of the Act.

2. The appellant has come up before this Court by way of filing of the present appeal.

3. The case of the prosecution is that on 26.06.2009 a police party on government vehicle was laying nakabandi near Kalgidhar petrol pump in the area of village Wara Daraka in connection with checking of suspects and vehicles. At about 2.30 P.M., from the Muktsar side, a Punjab Roadways, Moga Depot bus



bearing No. PB29-H-9781 came and was signalled to stop. The driver of the bus stopped the bus and disclosed his name as Kewal Singh. During checking of the bus one Rexian bag of black colour was recovered from near the driver seat and engine of the bus. On checking of the bag poppy husk was recovered. One diary was also recovered on which the name of driver Kewal Singh was also written. Driving licence of the accused was also recovered from the diary. Two samples of 250 grams each were drawn from the recovered poppy husk and were packed. The remaining poppy husk on weighment was found to be 3 Kgs. 500 grams was put in the same bag and packed. Recovered poppy husk, diary, driving licence were taken into possession vide memo Ex.PH. On search of the last seat of conductor one bag of vex was recovered, the search of which led to the recovery of poppy husk. The said bag belonged to Chamkaur Singh accused, who was conductor of the bus. Two samples of 250 grams each were drawn from the recovered poppy husk and were packed. The remaining poppy husk on weighment was found to be 3 Kgs. 500 grams and was put in the same bag and was packed and sealed. From the side pocket of the bag two police tickets Ex.P2 and Ex.P3 were recovered. One Challan and Rahdari voucher was also recovered. All the parcels and above said documents were taken into possession vide memo Ex.Pl. Recovered poppy husk, diary, driving licence were taken into possession vide memo Ex.PH. Accused failed to produce any document qua having poppy husk in their possession. Thereafter, FIR Ex.PP/1 was registered and site plan Ex.PQ depicting the place of recovery was prepared. On personal search of accused Kewal Singh, currency notes of Rs.230/-and one mobile phone Nokia was recovered, which were taken into possession vide memo Ex.PH. On personal search of accused Chamkaur Singh, one Nokia mobile phone was



recovered, which was taken into possession vide memo Ex.PK. SI Roop Chand informed the accused about his designation and rank and arrested them vide memo Ex.PL.. Bus No. PB29-H-9886 was also taken into possession vide memo Ex.PM. On the next day, the accused alongwith the case property was produced in the Court of learned ACJM.

4. Thereafter, upon conclusion of the trial, the appellant/accused was held guilty and sentenced vide impugned judgment dated 02.09.2011 passed by learned Judge, Special Court, Faridkot as enumerated above.

5. In compliance to order dated 11.01.2024 passed by a Coordinate Bench of this Court, an affidavit declaring mitigating circumstances qua the present appellant has been filed in Court today, which is taken on record. Learned counsel for the appellant submits that the appellant has been suffering the agony of trial since 26.06.2009 as the appeal is also an extension of trial. He is not involved in any other criminal case since his release on interim bail by this Court vide order dated 28.09.2011 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, Faridkot 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.

6. 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.



7. On the other hand, learned State counsel opposes the prayer of the appellant(s) by way of filing of custody certificate dated 20.08.2025 on the ground that the trial 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.

8. The appellant has been convicted for having in possession of 03 kg 500 grams 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 2009 and he has already faced the rigors of the trial for more than 16 years.

9. 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.

10. 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.

11. A perusal of the judgment of conviction passed by learned Judge, Special Court, Karnal 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.

12. 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 2009. 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 16 years and has been in the corridors of the court for this prolonged period. He remained incarcerated for 01 month and 09 days. He is living peacefully for last one and a half decade 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



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Court in the cases of **Haripada Das Vs. State of West Bengal** 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 of justice would be met, if sentence imposed upon the appellant is reduced to the one already undergone by him.

13. Accordingly, judgment of conviction and order of sentence dated 02.09.2011 passed by the learned Judge, Special Court, Faridkot 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.

14. With these modifications, the present appeal is disposed of. Pending applications if any, also stand disposed of.

**21<sup>st</sup> August, 2025**

*Sonia Puri*

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

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