



2025:PHHC:141141



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-2940-SB-2011

Date of decision: October 13, 2025

Balwinder Singh

....Appellant

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:-** Mr. Rahul Vats, Advocate for the appellant.

Mr. Deepak Kumar Grewal, DAG Haryana.

SUMEET GOEL, J. (ORAL)

The appellant-convict; taking exception to the judgment of conviction and order of sentence dated 03/04.11.2011 passed by learned Judge, Special Court (NDPS Act cases), Karnal (hereinafter referred to as "*trial Court*"); has preferred the instant appeal. The trial Court, after recording the prosecution evidence came to the conclusion that the appellant-convict was guilty of possession of contraband (i.e. 500 grams of opium without having permit or license). He was convicted under Section 18(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as '*the Act*') and sentenced to undergo Rigorous Imprisonment for a period of 04 years and to pay a fine of ₹25,000/-, in default whereof to further undergo Rigorous Imprisonment for a period of 01 year.

2. Learned counsel for the appellant-convict, at the outset, submits that he is not pressing the appeal in hand on merits, in so far, conviction of the

appellant is concerned. He has, however, submitted that sentence imposed upon the appellant-convict be reduced in view of the factum of his protracted trial, his age, antecedents and his familial related responsibility(s).

3. *Per contra*, learned State counsel has opposed the plea of the appellant, in so far, as it relates to the reduction of the sentence imposed upon him, by arguing that the order of sentence passed by the learned trial Court is in consonance with principles of law and justice and the nature of offence committed by him. He has sought to place on record the custody certificate dated 10.03.2025, which is taken on record.

4. I have heard learned counsel for the rival parties and have perused the record.

5. Since the appellant-convict has chosen not to press the appeal in hand on merits, in so far as judgment of conviction is concerned, therefore, this Court is only examining the issue of quantum of sentence imposed upon the appellant.

6. Before delving into the merits of the appeal as regard the quantum of sentence, it would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court titled as ***K. Pounammal vs. State Represented by Inspector of Police 2025 INSC 1014***, wherein it has been held as under:

“5.3 This Court has been consistent in approaching and dealing with the cases where the sentence already undergone by the convict is treated to be adequate sentence for variety of mitigating factors and circumstances operating in the case.

5.4 The accused in B.G. Goswami v. Delhi Admn. [(1974) 3 SCC 85], was convicted for the offence under the Prevention of Corruption Act, 1988. The Court observed that the main purpose of the sentence, broadly stated, is that the accused must realise that he has committed an act which is harmful not only to the society of which he forms an integral part but is also harmful to his own future, both as an individual and as a member of the society. It is the design to protect the society by deterring potential offenders as also by preventing the guilty party from repeating the offence. It was stated that reformatory aspect is also relevant and the offender should be reclaimed as law abiding citizen.

5.5 In *Dologovinda Mohanty vs. State of Orissa* ((1979) 4 SCC 557), this Court took into account of ₹138/- alleged to have been received by accused as illegal gratification, while confirming the conviction to reduce the sentence. In the same way, in *State of Maharashtra v. Rashid B. Mulani* [(2006) 1 SCC 407] the accused had obtained illegal gratification to the tune of ₹300/- in the capacity of Talathi. The said incident had occurred before 19 years and the case was pending since long before the Special Judge. This Court reduced the sentence.

5.6 In *K.P. Singh vs. State (NCT of Delhi)* [(2015) 15 SCC 497] it was observed by the Court that the quantum of sentence to be awarded would depends upon a variety of factors including the mitigating circumstances in a given case. It was stated that in doing so the courts are influenced in varying degree, and adopt reformatory, deterrent and punitive approach.

5.6. It was observed thus, “....delay in the conclusion of the trial and legal proceedings, the age of the accused, his physical/health condition, the nature of the offence, the weapon used and in the cases of illegal gratification the amount of bribe, loss of job and family obligations of the accused are also some of the considerations that weigh heavily with the courts while determining the sentence to be awarded....” (Para 10)

6. The conviction and sentence have their respective realms. While the conviction would be recorded on the basis of evidence adduced before the Court which would establish the implication of the accused in the offence, the guilty person or the convicted when to be awarded a sentence, a host of factors would operate to govern.

6.1. In determining the final sentence and the nature thereof, variety of factors that would operate would include the intervening time between the commission of offence and the actual award of the sentence, age of the accused, the stress which he or she might have suffered because of passage of time during each case has remained pending and undecided, the family circumstance and such other factors, without becoming exhaustive.

7. The process of sentencing by the courts is guided by theories such as punitive, deterrent or reformatory. Each school of thought has its own object and purpose to explain awarding of sentence and its utility. Amongst these theories, reformatory approach has become increasingly acceptable to the modern jurisprudence. Reformation is something always considered progressive. When there are mitigating circumstances, the court would lean towards reducing of the sentence. The focus would be on the crime, and not on the criminal. The society and system would nurture the guilt with positivity, while selecting the sentence.

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9. The prolongation of a criminal case for an unreasonable period is in itself a kind of suffering. It amounts to mental incarceration for the person facing such proceedings. For a person who is convicted and who has appealed against his or her conviction and sentence and who everyday awaits the fate of litigation, spends time in distress. In the present-day system of administration of justice, in which proceedings have often go on protracted unreasonably and therefore unbearably, the passage of long time itself makes the person suffer a mental agony.”

7. Having heard learned counsel for the rival parties and upon perusal of record; especially keeping in view the factum of the appellant being aged 50 years of age, the offence pertaining to the year 2009, the appellant

having faced protracted trial including the present appeal for a period of approximately 16 years & the FIR in question being the only case against the appellant; this Court is inclined to modify the sentence awarded to the appellant-convict to that of period already undergone.

8. In view of the above ratiocination, it is ordained thus:

(i) The conviction of the appellant-convict imposed vide impugned judgment is upheld. However, the sentence of imprisonment imposed upon the appellant is reduced to that of already undergone. The sentence of fine imposed upon the appellant-convict is maintained. Except with the modification in the quantum of sentence as indicated hereinabove, the appeal in hand stands disposed of.

(ii) The fine, if not already deposited, shall be deposited within a period of one month from today, failing which the modification in quantum of sentence shall stand withdrawn and the appellant-convict shall undergo remaining period of sentence as awarded by the trial court.

(iii) Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

October 13, 2025
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No