

PUNJAB AND HARYANA HIGH COURT

SINGLE BENCH

(Before : Deepak Manchanda, J.)

BALBIR SINGH

Vs.

STATE OF U.T., CHANDIGARH

CRR-718-2008 (O&M)

Decided on : 17-07-2026

A. Prevention of Food Adulteration Act, 1954 — Sections 7(1) and 16(1)(a)(i) — Probation of Offenders Act, 1958/Section 360 Cr.P.C. — Applicability barred — Section 20AA of the PFA Act excludes the benefit of the Probation of Offenders Act, 1958 and Section 360 Cr.P.C. to a person convicted under the PFA Act unless he was below 18 years of age at the time of the offence — Where the petitioner was 44 years old at the time of commission of the offence, he cannot claim the benefit of probation, and the statutorily prescribed minimum sentence cannot be scaled down below what the Act provides. [Paras 7-8]

B. Sentencing — Reduction of substantive sentence — Long pendency of criminal proceedings as mitigating factor — Prolonged pendency of criminal proceedings, by itself, constitutes a relevant mitigating circumstance while moulding sentence, even where the statute bars probation — An accused who has lived for years under the shadow of prosecution and its attendant stigma is entitled to have this factor weighed, particularly in cases involving non-heinous offences, warranting a reformatory and proportionate rather than a purely retributive approach. [Paras 12, 14]

C. Constitution of India, 1950 — Article 21 — Right to speedy trial — Relevance in sentence moulding — The right to a speedy and expeditious trial is a valuable right flowing from Article 21, read with the constitutional duty under Article 39A to ensure access to fair and expeditious justice — Protracted criminal proceedings spanning decades, without discussion of Article 21 in the statute's context, is a factor the Court may weigh while modifying sentence, notwithstanding the special provision excluding probation. [Paras 9-10]

Conviction maintained — Sentence modified — Conditions for reduced sentence — The revision petition was partly allowed: conviction under

Section 16(1)(a)(i) read with Section 7 of the PFA Act was maintained, but the substantive jail sentence was reduced to the period already undergone, subject to payment of enhanced fine of Rs. 5,000 within two months, failing which the original jail sentence stood revived. [Paras 16, 18]

Counsel for Appearing Parties

Ms. Shalini Atri, Advocate and Mr. Shivansh Arora, Advocate for the Petitioner; Mr. Sumit Jain, Addl. P.P. U.T. Chandigarh.

JUDGMENT

Deepak Manchanda, J. - In the instant revision petition, the petitioner was tried and convicted for the offence under Section 7 (1) of the Prevention of Food Adulteration Act, 1954 (hereinafter referred as PFA Act) punishable under Section 16 (1) (a) (i) of the PFA Act by the trial Court vide judgment dated 27.07.2004 and was sentenced to undergo rigorous imprisonment for a period of six months with a fine of Rs.1,000/- and in default of payment of fine to further undergo simple imprisonment for a period of one month. The said judgment was challenged by the petitioner by filing an appeal before the Additional Sessions Judge, Chandigarh which was dismissed on 04.04.2008 thereby confirming the order of the trial Court. Thereafter, being aggrieved by both the judgments, petitioner filed this revision petition assailing the same.

2. As per the facts in brief, on 18.02.1999, Food Inspector- M.K.Sharma, inspected the premises of the petitioner i.e. M/s Bharat Sweets in Shanti Nagar, Manimajra, Chandigarh and he was found in possession of about 4 kilograms of paneer contained in a tray for public sale. As per the analyst report, it is revealed that the milk fat in the said paneer was 40.94%, which fell short of the minimum prescribed statutory standard of 50.0% and the same was categorized under the sub-standardized goods.

3. Learned counsel for the petitioner submits that though the petitioner has good case on merits, but she would be giving up the plea of merits and her only submission is about the sentence, which has been imposed by the Court below. She has further argued that now the petitioner is 71 years old and has already closed his sweets shop way back in the year 2009 and is no longer in the same business. Further, due to his prolonged illness and medical condition, he is unable to work and is totally dependent upon his children for his livelihood. She further submits that out of the substantive sentence awarded, the petitioner has already undergone incarceration for a period of 9 days and has remained on bail pursuant to the order dated 11.04.2008 passed by this Court suspending the sentence during the pendency of the present revision petition. It is further submitted, on instructions, that having regard to the nature of the offence, the petitioner's clean antecedents, and the fact that he is not involved in any other criminal case, this Court may, while maintaining the conviction, reduce the substantive sentence to the period already undergone by him, subject to enhancement of the fine, in order to meet the ends of justice as the petitioner has faced a protracted criminal proceedings of more than 26 years.

4. On the other hand, learned State counsel has filed the custody certificate dated 09.07.2026 and has opposed the prayer made by learned counsel for the petitioner.

5. I have heard the learned counsel for the parties and have gone through the record with their able assistance.

6. As per the custody certificate, the petitioner has already undergone the actual custody period of 09 days and he is not involved in any other criminal case. It is also noticed by this Court that offence in question was committed in the year 1999 and the petitioner is out on bail for more than 18 years. In the above circumstances, it will not be justified to send him behind the bars to carry out the remaining sentence or to release him on probation.

7. As per Section 20AA of the PFA Act, the provisions of Probation of Offenders Act, 1958 or Section 360 of the Code of Criminal Procedure are not applicable to a person convicted of an offence under the provisions of the PFA Act, unless that person is under 18 years of age. In the present case, at the time of recording the conviction in 2004, the age of the petitioner was 49 years, which means that at the time of committing the offence, he was 44 years of age. As such, the petitioner cannot be granted the benefit of probation in view of Section 20AA of the PFA Act.

8. As per settled proposition of law, the sentence awarded to the petitioner under PFA Act cannot be further scaled down. Neither the accused can be granted the benefit of Probation of Offenders Act, 1958 nor can he be sentenced to the period of imprisonment lesser than as provided in the Act.

9. Further, in case titled as **State of Haryana Vs. Yad Ram, 987(1) RCR (Criminal) 264** while dealing with the provisions of PFA Act the effect of Article 21 of the Constitution of India which provides for a speedy trial was not discussed. It cannot be disputed that right to speedy and expeditious trial is one of the most valuable and cherished right guaranteed under the Constitution. Article 21 of the Constitution of India takes in its sweep the right to expeditious and fair trial. Even Article 39A of the Constitution of India recognizes the right of citizens to equal justice and free legal aid. To put it simply, it is the constitutional duty of the Government to provide the citizens of the country with such judicial infrastructure and means of access of justice so that every person is able to receive an expeditious, inexpensive and fair trial.

10. The said situation has already been discussed and recognized by the Hon'ble Apex Court in **Hussainara Khatoon & Ors. Vs. Home Secretary, State of Bihar (1980) 1 SCC 81**.

11. This view was followed by this Court in **Nand Lal v. State of Haryana (1992) 1 Rec. Cri R. 82** and **Ishwar Singh v. State of Haryana 1994(1) RCR 160**. The present case is fully covered by the view expressed by the Apex Court and by this Court in the judgments cited above. Even the Coordinate Bench of this Court while relying upon the above mentioned judgments, in case of **Aditya Kumar Vs. State of Haryana, 2025 SCC Online P&H 2189** has granted the same relief as has been prayed for by the learned counsel for the petitioner.

12. While considering the petitioner's prayer for reduction of sentence, this Court finds that the considerable lapse of time since the commission of offence, coupled with

the prolonged pendency of the proceedings, is a relevant mitigating circumstance. Further, during this period, as per the learned State counsel, the petitioner has not been involved in any other criminal case and has maintained a clean record, indicating his reformation. Further, as per the custody certificate dated 09.07.2026, the petitioner has already undergone 09 days of the substantive sentence out of the total sentence of six months of rigorous imprisonment. These factors deserve due weightage while determining the alteration of sentence awarded by the trial Court.

13. A similar issue came up for consideration before the Hon'ble Supreme Court in **Israfil @ Pappu @ Naimuddin Khan Versus State of Madhya Pradesh, 2026 INSC 654**, wherein, having regard to the peculiar facts and circumstances of the case, including the long lapse of time and other mitigating factors, the sentence awarded to the accused was reduced. The ratio of the said decision lends support to the course being adopted in the present case. The relevant extract of the said judgment is reproduced hereunder:

"23. This Court, in catena of cases before it, while maintaining conviction, had exercised its discretion and had reduced the substantive sentence considering long passage of time, absence of criminal antecedents and other mitigating circumstances. For instance, in **Padum Kumar vs. State of Uttar Pradesh**, while maintaining conviction for offences including Sections 467 and 468 of the IPC, this Court reduced the sentence considering the age of the matter, the sentence already undergone and taking into account the peculiar facts and circumstances of the case. The long lapse of time without any material indicating repetition of similar criminal conduct is also a relevant consideration while moulding sentence. The appellant has already undergone the rigours of criminal proceedings for over a decade since 2014."

14. The Hon'ble Supreme Court has also recognized that prolonged criminal litigation is by itself a relevant mitigating circumstance while modifying the sentence. Where an accused has lived for years, or even decades, under the shadow of criminal proceedings, facing the uncertainty of the outcome and the social stigma associated with such prosecution, the said experience constitutes a significant factor that deserves to be taken into account while moulding the sentence. The Hon'ble Supreme Court has further observed that such a principle is particularly applicable in cases involving non-heinous offences, where the ends of justice can be adequately served by adopting a reformatory and proportionate approach to sentencing rather than a purely retributive one.

15. In the present case as well, the allegation against the petitioner is that he was in possession of about 4 kilograms of paneer contained in a tray for public sale, which contained 40.94 % of milk fat content and fell short of the minimum prescribed statutory standard of 50.0%. Subsequently, the product was declared adulterated and complaint was filed. The learned counsel for the petitioner has apprised the Court that the petitioner is no longer in the same trade/business of sweets shop and the same has already been shut down in the year 2009. Presently, the petitioner being old in age is no longer working and is totally dependent upon his children for livelihood.

16. For the reasons mentioned above, the conviction of the petitioner for an offence under Section 16(1)(a)(i) read with Section 7 of the PFA Act is hereby maintained.

However, keeping in view the facts and circumstances of the case and the fact that the petitioner has already faced the agony of the protracted prosecution and has suffered mental harassment for a long period of 18 years, the present revision petition is partly allowed and the jail sentence as awarded by the Court below is altered to the extent that the same is reduced to the period already undergone by the petitioner, subject to enhanced fine of Rs.5,000/- to be deposited with the trial Court within a period of two months from today.

17. Bail bonds/surety bonds furnished by the petitioner stands discharged.

18. It is clarified that in case the aforesaid fine amount is not deposited within the stipulated period, the same would result in reviving the jail sentence awarded by the Court below and the petitioner will have to then undergo the remaining jail sentence.

19. The pending miscellaneous application, if any, is also disposed of as such.