



**CRA-S-1438-SB-2007 (O&M)**

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**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**CRA-S-1438-SB-2007 (O&M)  
Date of Decision: 25.03.2025**

**BUTA SINGH AND OTHERS**

**...APPELLANTS**

**Versus**

**STATE OF PUNJAB**

**...RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. H.S. Rakhra, Advocates  
for the appellants.

Mr. Rishabh Singla, AAG Punjab.

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**Harpreet Singh Brar, J. (Oral)**

1. Present appeal has been preferred by the appellants against the judgment of conviction and order on quantum of sentence dated 19.07.2007 passed by learned Judge, Special Court, Bathinda vide which the appellants have been convicted and sentenced as mentioned below:

<b>Offence under Section</b>	<b>Sentence</b>	<b>Fine</b>	<b>Sentence in default of payment of fine</b>
15 of NDPS Act	Rigorous imprisonment for 2 years each	Rs. 2,000/- each	Rigorous imprisonment for one month each

2. Briefly stated the facts of the prosecution case are that on 04.01.2004, police party headed by ASI Bahadur Singh and other police officials were proceeding to village Jajal, Malkana and Gatwali in Govt. Gypsy No. PB-08F-1259 on patrolling duty. When they reached link road of Malkana near the culvert of minor in the area of village Jajal, it spotted a tata Sumo vehicle bearing No. HR-16 B/7448 coming from the front side. The said vehicle was signalled to stop and the driver of the aforesaid vehicle disclosed his name as Jagtar Singh and two other persons were sitting in the middle seat thereof, with a plastic bag of white colour, the mouth of which was tied, disclosed their

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names as Charanjit Singh and Jagrup Singh. On suspicion, search of the said white coloured bag was conducted and upon search, poppy husk was recovered. One sample weighing 100 grams was separated from the bulk and the remaining poppy husk upon weighment came to be 19.900 kilograms. Separate parcels of the sample as well as remaining bulk of the poppy husk were prepared, which were sealed. FIR(*supra*) was registered under Sections 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as 'NDPS Act').

3. Learned Counsel for the appellants submits that he is not assailing the impugned judgment of conviction dated 19.07.2007 passed by learned Judge, Special Court, Bathinda on merits and restricts his prayer to modification of the order on quantum of sentence dated 19.07.2007 to that of sentence already undergone by the appellants as appellants-Buta Singh and Jagtar Singh have already undergone a period of 06 months and 05 days, appellant-Jagroop Singh Singh has already undergone a period of 06 months and 23 days and appellant-Charanjit Singh has already undergone a period of 06 months and 04 days out of total sentence of 2 years each imposed upon them.

4. Per contra, learned State counsel opposes the prayer of the appellants on the ground that learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record and as such, the appellants do not deserve any leniency.

5. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the appellants were convicted for being in possession of 20 kilograms of poppy husk, attracting the offence under Section 15 of NDPS Act, for which no minimum punishment has been prescribed. As per their custody certificate, appellants-Buta Singh and Jagtar

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Singh have already undergone a period of 06 months and 05 days, appellant-Jagroop Singh Singh has already undergone a period of 06 months and 23 days and appellant-Charanjit Singh has already undergone a period of 06 months and 04 days out of total sentence of 2 years each imposed upon them. Moreover, learned counsel for the appellants has not assailed the judgment of conviction on merits. Rather, he has restricted his prayer only qua modification of order on quantum of sentence. Since there is no minimum punishment prescribed under Section 15 of NDPS Act, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the appellants is reduced to the period already undergone by them.

6. In **Deo Narain Mandal v. State of UP (2004) 7 SCC 257**, a three Judge bench of the Hon'ble Supreme Court has opined 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, 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.

7. Further, a two Judge Bench of the Hon'ble Supreme Court in **Ravada Sasikala v. State of AP AIR 2017 SC 1166**, has reiterated 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



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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 the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

8. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and the said judgment is based on correct appreciation of evidence available on record. However, the FIR (supra) was lodged on 04.01.2004 and the appellants have been suffering the agony of trial for last more than 21 years.

9. Therefore, in view of the discussion above, the present appeal is disposed of in the following terms:-

(i) The judgment dated 19.07.2007 passed by the learned Judge, Special Court, Bahinda is upheld.

(ii) The order of sentence dated 19.07.2007 is modified to the extent that the sentence of rigorous imprisonment for 2 years along with fine of Rs. 2,000/- each with default mechanism awarded to the appellants is reduced to the period of sentence already undergone by them.

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

**(HARPREET SINGH BRAR)**  
**JUDGE**

**25.03.2025**

*Ajay Goswami*

*Whether speaking/reasoned*  
*Whether reportable*

*Yes/No*  
*Yes/No*