

**202 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****CRA-S-803-SB-2009****Date of Decision: April 01, 2025****Malkit Singh and another ... Appellants****Versus**

State of Punjab ...Respondent

**CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA****Present:-** Mr. Vishal R. Lamba, Advocate for the appellants.

Mr. Rajeev K. Takkar, DAG, Punjab.

**DEEPAK GUPTA, J.(Oral)**

Fresh power of attorney has been filed on behalf of the appellants.

2. Appellants – Malkiat Singh and Paramjit Singh were tried by learned Judge, Special Court, Mansa in a case arising out of FIR No.161 dated 14.09.2006, under Section 15 of the NDPS Act registered at Police Station Sadar Mansa, as he was found in possession of 30 Kg of poppy husk. After trial, the appellants were convicted under Section 15 of the NDPS Act vide judgment dated 21.03.2009 by the trial Court and were sentenced to undergo rigorous imprisonment for a period of one year and to pay fine of ₹1,000/- each with default sentence of 03 months rigorous imprisonment each in case of non-payment of fine.

3. Against the abovesaid conviction and sentence, this appeal was filed.

4. Today learned counsel for the appellants stated at the outset that appellants do not press the appeal against the judgment of conviction; and that appellants confine their prayer only against order of sentence. It is submitted that appellants would be satisfied, in case they are sentenced to imprisonment for the period already undergone by them.

5. Learned counsel points out that offence pertains to the year 2006; that appellants were young persons at that time; that appellants have already undergone actual sentence of more than 02 months and are not involved in any other case and so, they deserve to be sentenced for the period already undergone by them.

6. Learned State counsel has not seriously objected to the aforesaid prayer.

7. The custody certificates placed on record by the respondent-State would reveal that appellants have already undergone actual custody sentence of more than 02 months. It is revealed further that they have no criminal antecedents. Nothing has been brought on record to suggest that after this conviction, appellants have been involved in any other case. They were young men of 27 and 35 years of age at the time of offence, which had taken place way back in 2006 i.e. 19 years back.

8. In the aforesaid facts and circumstances, it will be in the interest of justice, if the period of imprisonment is reduced to the period already undergone by the appellants, instead of sending them behind bars in the company of hardened criminals.

9. Consequently, the present appeal is partly accepted. By maintaining the impugned judgment against conviction, the order of sentence as passed by the trial Court is modified and the appellants are sentenced to imprisonment for the period already undergone by them. As far as the fine is concerned, it will remain same.

Disposed of.

**April 01, 2025**

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**(DEEPAK GUPTA)**

**JUDGE**

Whether reasoned/speaking:

Yes/No

Whether reportable:

Yes/No