



CRA-S-1004-SB-2007 (O&amp;M)

1

537

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CRA-S-1004-SB-2007 (O&M)  
Date of Decision: 21.03.2025

JAGBIR @ JAGGU

...APPELLANT

Versus

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gagandeep Singh Gill, *Amicus Curiae*  
for the appellant.

Mr. Harkesh Kumar, AAG Haryana.

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

1. Present appeal has been preferred by the appellant against the judgment of conviction and order on quantum of sentence dated 12.05.2007/14.05.2007 passed by learned Special Judge, Jind vide which the appellant has been convicted and sentenced as mentioned below:

Offence under Section	Sentence	Fine	Sentence in default of payment of fine
20 of NDPS Act	Rigorous imprisonment for one year	Rs. 15,000/-	Rigorous imprisonment for two months

2. Brief facts of the case are that on 04.07.2004, ASI Dharamvir along with other police officials was present at Gohana Road T-point, Dhori turn Pindara in connection with crime detection and patrolling duty in a Govt. Jeep driven by C. Surajmal. ASI Dharamvir received a secret information that Jagbir @ Jaggu son of Chhotu Ram, who was in habit of selling the liquor, now for the last 4/5 months, has been doing the business of selling narcotic in the village at Gohana Road on his blue colour scooter and on that also he will come from Jind City side with narcotic and if *nakabandi* is laid, then he can be caught red handed. Naka was laid and a young boy came from the city side on a blue colour

**CRA-S-1004-SB-2007 (O&M)**

2

scooter to whom ASI Dharambir with the help of other police officials apprehended. His identity was verified. On the basis of suspicion, search of the appellant-accused was conducted. Thereafter, on search of right hand side pocket of his pent, Charas was recovered, wrapped in a polythene. Out of the recovered Charas, two samples each of 10 grams were separated and remainder was found to be 180 grams. All the parcels were sealed. FIR(*supra*) was registered under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as 'NDPS Act').

3. Learned *Amicus Curiae* for the appellant *inter alia* contends that solitary witness from public namely Prem Singh was joined in investigation, however, he was not examined by the prosecution and the entire case of the prosecution hinges upon testimonies of official witnesses. Further statement of witnesses is discrepant with regard to the scooter on which the appellant was apprehended. Further there is no entry in the register No. 19 with regard to deposit of case property in *Malkhana*. There is non-compliance of Section 42 of NDPS Act with regard to secret information and on this ground, entire trial stands vitiated. Further, the recovery memo Ex. PH was not signed by the Gazetted Officer DSP Sahib Singh Nehra (PW-6). Lastly, he submits that the appellant has already undergone a period of more than 01 month and 12 days out of total sentence of 01 year imposed upon him.

4. Per contra, learned State counsel opposes the prayer of the appellant 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 appellant does 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 appellant was convicted

**CRA-S-1004-SB-2007 (O&M)**

for being in possession of 200 grams of Charas, attracting the offence under Section 20 of NDPS Act, for which no minimum punishment has been prescribed. As per his custody certificate, he has already undergone an actual sentence of 01 month and 12 days out of total sentence of 01 year, in the instant case. Since there is no minimum punishment prescribed under Section 20 of NDPS Act, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the appellant is reduced to the period already undergone by him.

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 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

**CRA-S-1004-SB-2007 (O&M)****4**

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 04.07.2004 and the appellant has been suffering the agony of trial for last more than 20 years. Since his conviction, he has grown into a law-abiding citizen and desires to live a peaceful life.

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

(i) The judgment dated 12.05.2007 passed by the learned Special Judge, Jind is upheld.

(ii) The order of sentence dated 14.05.2007 is modified to the extent that the sentence of rigorous imprisonment for one year along with fine of Rs. 15,000/- with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.

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

11. High Court Legal Services Committee is directed to pay remuneration to the *Amicus Curiae*, as per rules.

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

**21.03.2025***Ajay Goswami**Whether speaking/reasoned*  
*Whether reportable**Yes/No*  
*Yes/No*