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

**CRA-S-530-SB-2006 (O&M)
Date of Decision: 28.03.2025**

LEELA SINGH

...APPELLANT

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Manpreet Singh, *Legal Aid Counsel*
for the appellant.

Mr. Rishabh Singla, AAG Punjab.

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 08.02.2006 passed by learned Judge, Special Court, Barnala vide which the appellant has been convicted under Section 15 of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as 'NDPS Act').

2. The appellant was awarded sentence as mentioned below:

Offence under Section	Sentence	Fine	Sentence in default of payment of fine
15 of NDPS Act	Rigorous imprisonment for 01 year	Rs. 10,000/-	Rigorous imprisonment for three months

2. Brief facts of the case are that on 17.04.2002, police party of Police Station Dhanaula headed by S.I. Ram Asra happened to be present at 'T' point Bhikhi while going on patrolling duty from Dhanaula towards Kaleke, when one Nikka Singh met them and joined in the police party. When the police party reached in the area of village Kaleke near *Katcha Pahi* (passage), a person was seen coming on foot from the side of fields with a *Jhola Slung* on his right shoulder, who on seeing the police party, immediately took turn towards

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backside and took hastily steps which arose suspicion and thus, he was apprehended by the police and his identity was verified. On suspicion, search of the appellant and his belongings was conducted. Upon search of the *jhola* carried by the appellant, poppy husk was recovered. Two samples of 250 grams each were separated and remaining poppy husk on weighment was found to be 01 kilogram. All the parcels were sealed. FIR(*supra*) was registered under Section 15 of NDPS Act.

3. Learned Legal Aid Counsel for the appellant *inter alia* contends that the entire case of the prosecution hinges upon the testimonies of official witnesses. Although, one Nikka Singh was joined as independent witness but he was not examined by prosecution. There is non-compliance of Sections 50 and 57 of NDPS Act. There is nothing on record to prove that the requisite report was ever sent to the Superior Officer. Further the alleged recovery was made on 17.04.2002 and the representative sample was sent to the office of Chemical Examiner on 30.04.2002. Thus, there is an unexplained delay of 13 days in sending the sample to Forensic Science Laboratory. Further the CFSL form was not prepared at the spot. Lastly he submits that the appellant is not involved in any other case and has undergone 03 months and 15 days of custody out of total sentence of 01 year awarded to 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. The appellant was also convicted in one more case under NDPS Act 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

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for being in possession of 1½ kilogram of poppy husk, attracting the offence under Section 15 of NDPS Act, for which no minimum punishment has been prescribed. Custody certificate indicates that appellant has already undergone custody of 03 months and 15 out of total sentence of 01 year, in the instant case. 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 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



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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 17.04.2002 and the appellant has been suffering the agony of trial for last about 23 years.

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

(i) The judgment dated 08.02.2006 passed by the learned Judge, Special Court, Barnala is upheld.

(ii) The order of sentence dated 08.02.2006 is modified to the extent that the sentence of rigorous imprisonment for 01 year along with fine of Rs. 10,000/- 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 Legal Aid Counsel, as per rules.

(HARPREET SINGH BRAR)
JUDGE

28.03.2025

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No

Yes/No