



CRA-S-187-SB-2009 (O&M)

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1207 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-187-SB-2009 (O&M)
Date of Decision: 08.05.2025

BINDER SINGH

...APPELLANT

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ankit Aggarwal, Advocate as *Amicus Curiae*
for the appellant.

Mr. Nitesh Sharma, DAG 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 27.08.2008 passed by learned Judge, Special Court, Mansa vide which the appellant has been convicted and sentenced as mentioned below:

Offence under Section	Sentence	Fine	Sentence in default of payment of fine
15 of NDPS Act	Rigorous imprisonment for one year	Rs. 1,000/-	Rigorous imprisonment for 03 month

2. Brief facts of the case are that on 24.11.2004, a police party headed by Assistant Sub Inspector Avtar Singh and other police officials in connection with patrolling duty, in official vehicle No. PB-31-C-9345, were going towards village Reon Khurd and when the police party reached on drain bridge in the area of village Reon Khurd, PW Bhola Singh met the police party and associated him. Applicant-accused was seen sitting under the drain with a palli i.e. gunny sheet and gunny bag with its mouth open lying near him. On suspicion he was apprehended and his name and address was verified. On the basis of suspicion, personal search of the appellant along with the gunny bag was conducted. Upon



search of gunny bag, poppy husk was recovered. Out of the said poppy husk, two samples of 100 grams each were separated and remaining on weighment was found to be 19.800 grams. All the parcels were sealed. FIR(*supra*) was registered under Section 15 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 there is non-compliance of mandatory provisions of Sections 50, 42-A and 57 of NDPS Act. Further, there is no evidence to prove the conscious possession of the appellant over the alleged contraband as the bag containing poppy husk was recovered from a place, which was accessible to others and during the course of investigation, one Bhola Singh was joined as independent witness, however, he was not examined by the prosecution and the entire case of prosecution hinges upon the testimonies of official witnesses only and non-compliance of Section 50 of NDPS Act alone, is sufficient to suffocate the case of prosecution.

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 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 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. Appellant has already undergone custody of 08 months and 13 days 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 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)



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was lodged on 24.11.2004 and the appellant has been suffering the agony of trial for last more than 20 years. Since his conviction, the appellant has reformed into a law-abiding citizen and intend 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 27.08.2008 passed by the learned Judge, Special Court, Mansa is upheld.

(ii) The order of sentence dated 27.08.2008 is modified to the extent that the sentence of rigorous imprisonment for 01 year along with fine of Rs. 1,000/- 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 Authority is directed to pay remuneration to learned *Amicus Curiae* as per rules.

(HARPREET SINGH BRAR)
JUDGE

08.05.2025

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No

Yes/No