



**365 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRA-S-1573-SB of 2006 (O&M)
Date of decision: 06.03.2025

State of HaryanaAppellant

Versus

Kashmir Singh ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Harkesh Kumar, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The prayer in the present appeal is to set aside the impugned judgment and order dated 31.01.2006 passed by learned Judge, Special Court, Kaithal whereby the accused-respondent was convicted and sentenced for the offence punishable under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter 'NDPS Act'), in the case stemming from FIR No.106 dated 26.07.2002 registered at Police Station Guhla.

2. The appellant was sentenced as mentioned below:

Offence	Sentence
Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985	Imprisonment for a period of one month and one day w.e.f. 26.07.2002 to 26.08.2002, which he has already undergone.

3. Brief facts of the case are that on 26.7.2002, ASI Baldev Raj alongwith ASI, Dharamvir Singh, Head Constable Balbir Singh, constable Chhabeg Singh was present on a *kacha rasta* which leads from Dabankheri to Nanehra in connection with Nakabandi. The respondent was seen coming from one side of the road and upon seeing the police party, he immediately tried to



flee. Subsequently, he was apprehended on the basis of suspicion. The police personnel searched the gunny bag, being carried by the respondent on his head and 20 kg of poppy husk was recovered from it. Thereafter, two samples of 200 grams each were drawn from the contraband and made into parcels. Upon completion of necessary formalities, a *rukka* was sent to the police station, on the basis of which, the FIR(supra) was recorded.

4. Upon conclusion of the trial, the learned trial Court convicted the respondent under Section 15, NDPS Act impugned order and sentenced as mentioned above.

5. Learned State counsel submits that the learned Court below has fallen into grave error in sentencing the respondent to only an imprisonment for the period of one month and one day. He further contends that the learned Court has taken a lenient view while passing the order of sentence even though the prosecution has proved the case beyond reasonable doubt. The respondent was found in possession of 20 kg of poppy husk and has been convicted under Section 15, NDPS Act. In order to create a deterrent effect, it is necessary that the sentence awarded to him is enhanced.

6. Having heard the learned State counsel and after perusing the record with his able assistance, it transpires that the appellant was convicted under Section 15, NDPS Act for being in possession of 20 kg of poppy husk. The FIR in the present case was lodged on 26.07.2002 and the respondent has been suffering the agony of trial for about 23 years now. As per his custody certificate, he is not involved in any other case and has already undergone imprisonment awarded to him in the present case. Further, it appears that no minimum punishment has been prescribed under Section 15, NDPS Act.



7. The theory of reformation and rehabilitation aims at separating the criminal from the crime and compels us to look beyond the one fateful act committed by him. In a civilised society like ours, it would be truly unfortunate if an offender is not given the opportunity to realise and fully fathom his mistake and channel that awareness into making fruitful contributions in society.

8. In *Deo Narain Mandal vs. State State of UP (2004) 7 SCC 257*, 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.

9. Further, the Hon'ble Supreme Court in *Ravada Sasikala vs. State of Andhra Pradesh 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.

10. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity and the same is based on correct appreciation of evidence available on record. However, it is imperative to note the respondent has clean antecedents and been suffering the agony of trial about 22 years now. As such, this Court is of the opinion that that the sentence awarded to the respondent by the learned Court below warrants no interference.

11. Consequently, in view of the discussion above, the present appeal is dismissed. The impugned judgment of conviction as well as the order of sentence dated 31.01.2006 passed by the learned Judge, Special Court, Kaithal are hereby upheld.

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

(HARPREET SINGH BRAR)
JUDGE

06.03.2025

Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No