



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

478

**CRA-S No.650-SB-2007 (O&M)**

**Date of decision: 18.03.2025**

Joginder Singh

....Appellant

Versus

State of Punjab

....Respondent

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

**Present:** Mr. Avikaran Bansal, Advocate (*Legal Aid Counsel*)  
for the appellant.

Mr. Rishabh Singla, AAG, Punjab.

**HARPREET SINGH BRAR J. (Oral)**

1. The prayer in the present appeal is to set-aside the judgment of conviction and order of sentence dated 20.03.2007 passed by learned Judge, Special Court, Bathinda whereby the appellant was convicted and sentenced for the offence punishable under Section 15(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter 'the NDPS Act'), in the case stemming from FIR No.180 dated 17.12.2003 registered under Section 15 of the NDPS Act at Police Station Talwandi Sabo.

2. The appellant was sentenced as mentioned below:

Offence	Sentence
Section 15(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985	Rigorous imprisonment for a period of 07 months and to pay fine of Rs.1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for 07 days.

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3. Brief facts of the case are that on 17.12.2023 during patrolling duty, a police party headed by ASI Gurjant Singh was stationed at village Jaga Ramtirath where the appellant was observed acting suspiciously while carrying a bag and thereafter, he was apprehended and upon search, total 10 Kgs of Poppy Husk was recovered from the appellant's possession. Subsequently, the FIR (supra) was registered under the NDPS Act.

4. Learned Legal Aid Counsel submits that the learned Court below has fallen into grave error in convicting the appellant, as his guilt has not been proved beyond reasonable doubt. He contends that there is non-compliance of Sections 42 and 50 of the NDPS Act as neither any Gazetted Officer nor any Magistrate was called at the spot. Moreover, the fact that the appellant was in conscious possession of the contraband has not been proved on record. Further, the case set up by the prosecution is highly improbable as the link evidence is missing. Lastly, he submits that the appellant has already undergone a period of 02 months and 10 days in custody and he is not involved in any other criminal case.

5. *Per contra*, learned State counsel opposes the prayer of the appellant on the ground that the learned Court below has passed a well-reasoned judgment based on correct appreciation of evidence available on record as such, the appellant does not deserve any leniency.

6. 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 10 kgs of Poppy Husk, i.e. intermediate quantity, attracting the offence of Section 15 of the NDPS Act, for which no minimum punishment has been prescribed. As per custody certificate, he is not involved in any other case and has already undergone an actual sentence of 02 months and 10 days out of total sentence of 07 months, in the instant case. Since there is no minimum punishment prescribed under Section 15 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.

7. In *Deo Narain Mandal vs. State of U.P. (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.

8. Further, the Hon'ble Supreme Court in *Ravada Sasikala vs. 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.

9. A perusal of the judgment of conviction passed by the learned Court below indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. However, the FIR (supra) was registered on 17.12.2003 and the appellant has been suffering the agony of trial for the last more than 21 years. Since his conviction, the appellant has grown into a law-abiding citizen and desires to live a peaceful life.

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

***(i) The judgment of conviction dated 20.03.2007 passed by the learned Judge, Special Court, Bathinda is upheld.***

***(ii) The order of sentence dated 20.03.2007 is modified to the extent that the sentence of rigorous imprisonment for a period of 07 months awarded to the appellant is reduced to the period of sentence already undergone by him.***

***(iii) The sentence of fine of Rs.1,000/- imposed upon the appellant by the learned Court below shall remain intact. The appellant is directed to deposit the said amount, if***



*not deposited so far, in the trial Court within a period of one month from the date of receipt of certified copy of this order. In case of default of payment of fine, the appellant shall be liable to be taken back into custody and made to undergo rigorous imprisonment for a period of seven days.*

11. The High Court Legal Services Authority is directed to pay remuneration to the learned Legal Aid Counsel as per rules.
12. Pending miscellaneous application(s), if any, shall also stand disposed of.

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

**18.03.2025**

*yakub*

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No