



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

721

CRA-S-1123-SB-2015 (O & M)

Date of decision: 24.09.2025

Baldev Singh

....Appellant

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Jasraj Singh, Advocate for the appellant.
(Through hybrid mode)

Mr. Parmod Kumar, AAG, Haryana.

AMAN CHAUDHARY, J.

1. The present appeal has been filed challenging the judgment/ order dated 06/07.01.2015 passed by Special Judge/ Additional Sessions Judge, Yamuna Nagar at Jagadhri, vide which the appellant was convicted and sentenced to undergo rigorous imprisonment for ten years and to pay a fine of Rs.1,00,000/- for the offence punishable under Section 15 of the Narcotic Drugs and Substances Act, 1985 (for short 'the Act').

2. Briefly put, the facts of the prosecution case are that on 29.12.2013, when ASI Prithvi Singh alongwith other police officials was on patrolling duty, a secret information was received on basis of which, they laid a naka in front of Janta School, Mustabad. During checking they stopped a platina motorcycle rider, who tried to take turn but was apprehended. On suspicion, after apprising his rights, search was conducted, upon which 3.350 kg poppy husk was recovered from the accused. The case property was taken into police possession. Ruqa was sent, on the basis of which, present FIR was registered. After completion of investigation, challan against the accused was filed. Upon which charge under



Section 15 of Act was framed, to which he pleaded not guilty and claimed trial.

3. The prosecution, in order to prove its case, had examined 11 witnesses. Thereafter, statement of the accused under Section 313 Criminal Procedure Code was recorded, in which all the incriminating circumstances and evidence was put to him, which he denied and pleaded innocence. In defence, he examined three witnesses.

4. After hearing the learned counsel for the parties and going through the evidence brought on record, the trial Court came to the conclusion that prosecution had successfully proved its case in bringing home the guilt against the accused and convicted and sentenced him as noticed above in para no.1.

5. Hence, the present appeal.

6. Learned counsel for the appellant, at the very outset, does not wish to challenge the conviction, but prays for modification of the order of sentence in view of the quantity of recovered contraband that was only 3.5 kg of poppy husk, which is marginally above the small quantity and falls in "intermittent quantity".

7. On the other hand, learned State counsel submits that the trial Court after appreciating the evidence led by the prosecution, has rightly convicted and sentenced the appellant, therefore, prays for the dismissal of the present appeal.

8. Heard the learned counsel for the parties and perused the record.

9. Though, the appellant has given up his challenge to the conviction and restricted his prayer only with regard to reduction of his sentence, the recovery being of non-commercial quantity. However, this Court still deems it appropriate to examine the judgment of conviction. The trial Court had thoroughly examined the evidence and observed that the prosecution has proved its case



beyond reasonable doubt against the appellant. The recovery was effected from him by following the proper procedure and there is nothing on record to suggest that the appellant was falsely implicated in the case. From the statements of the witnesses, the link of evidence appears to be complete. Thus, the trial Court has rightly convicted the appellant as referred to above and there is no scope for interference in the findings recorded and conclusion arrived at by it. As such, the conviction of the appellant is affirmed.

10. Regarding the issue of awarding the sentence, reference can be made to the Central Government Notification dated 19.10.2001, the quantity of contraband has been defined:

Small quantity of poppy straw = 1 kg or less.

Commercial quantity = 50 kg or more.

10. Section 15 of the Act reads thus:

15. Punishment for contravention in relation to poppy straw.—

Whoever, in contravention of any provisions of this Act or any rule or order made or condition of a licence granted thereunder, produces, possesses, transports, imports inter-State, exports inter-State, sells, purchases, uses or omits to warehouse poppy straw or removes or does any act in respect of warehoused poppy straw shall be punishable,—

(a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees or with both;

(b) where the contravention involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years and with fine which may extend to one lakh rupees;

(c) where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

11. The issue regarding awarding of sentence under the NDPS Act, 1985 was examined by Hon'ble the Supreme Court in **Soman vs. State of Kerala**, (2013) 11 SCC 382, the relevant of which reads thus:



17. In a proportionality analysis, it is necessary to assess the seriousness of an offence in order to determine the commensurate punishment for the offender. The seriousness of an offence depends, apart from other things, also upon its harmfulness. The question is whether the consequences of the offence can be taken as the measure for determining its harmfulness? In addition, quite apart from the seriousness of the offence, can the consequences of an offence be a legitimate aggravating (as opposed to mitigating) factor while awarding a sentence? Thus, to understand the relevance of consequences of criminal conduct from a sentencing standpoint, one must examine: (1) whether such consequences enhanced the harmfulness of the offence; and (2) whether they are an aggravating factor that need to be taken into account by the courts while deciding on the sentence.

Xx xx xx

26. Punishment should acknowledge the sanctity of human life. We fully agree.

27. From the above, one may conclude that:

27.1. Courts ought to base sentencing decisions on various different rationales – most prominent amongst which would be proportionality and deterrence.

27.2. The question of consequences of criminal action can be relevant from both a proportionality and deterrence standpoint.

27.3. Insofar as proportionality is concerned, the sentence must be commensurate with the seriousness or gravity of the offence.

27.4. One of the factors relevant for judging seriousness of the offence is the consequences resulting from it.

27.5. Unintended consequences/harm may still be properly attributed to the offender if they were reasonably foreseeable.....”

12. In **Dhambir vs. Union Territory, Chandigarh** 2004(1) RCR (Crl.) 704, wherein the recovery of contraband was of non-commercial, it being 100 gms of charas, despite that the trial Court awarded the maximum punishment of 10 years, this Court reduced the sentence to the period already undergone i.e. 16 months as well as fine from Rs.two lacs to Rs.5000/-.

13. Similarly in **Mukesh Kumar Jatav vs. The State of MP**, Criminal Appeal No.7063-2022, decided on 12.05.2023, the High Court reduced the



sentence of the accused-appellant from 10 years to 9 month, keeping in view the the recovery effected being non-commercial i.e. 1.9 kg of opium and the fact that he is facing the agony of trial.

14. In the present case, concededly, the recovery of poppy straw effected from the appellant was of 3.5 kg, which in view of the aforesaid Notification and the Act falls under “intermediate quantity” category (i.e., more than small but less than commercial), the appellant is facing the agony of protracted trial for the last 12 years and is stated to be the only bread winner in the family, the sentence is reduced to the period already undergone 3 years, 11 months and 19 days and also reducing the fine from Rs.1 lac to 10,000/- to be deposited within two months, failing which the appellant shall undergo rigorous imprisonment for two months.

15. The appeal stands disposed of accordingly.

24.09.2025
parveen kumar

(AMAN CHAUDHARY)
JUDGE

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