



CRA-S-398-SB-2009 (O&M) and one more case **1**
1225(2) **IN THE HIGH COURT OF PUNJAB & HARYANA**
AT CHANDIGARH

1. **CRA-S-398-SB-2009 (O&M)**
Date of Decision: 08.05.2025
HARPAL SINGH **...APPELLANT**

Versus

STATE OF PUNJAB **...RESPONDENT**

2. **CRA-S-674-SB-2009 (O&M)**
Date of Decision: 08.05.2025
KARNAIL SINGH @ BAROLA **...APPELLANT**

Versus

STATE OF PUNJAB **...RESPONDENT**

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. H.S. Batth, Advocate for
for the appellant in CRA-S-398-SB-2009 and
Mr. Davinder Kumar, Advocate for
Mr. P.K.S. Phoolka, Advocate
for the appellant in CRA-S-674-SB-2009.

Mr. Nitesh Sharma, DAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. Both these appeals are decided by this common order as both the cases are arising out of the same judgment of conviction and order of sentence.

2. The prayer in the present appeals is to set aside the judgment of conviction and order on quantum of sentence dated 13.01.2009 passed by learned Judge, Special Court, Mansa, whereby the appellants were convicted and sentenced for the offence punishable under Section 15 of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as 'NDPS Act') in the case stemming from FIR No. 191 dated 23.11.2004 registered at Police Station Bhikhi.

3. The appellants were sentenced for keeping in their possession 35



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KG of poppy husk, as mentioned below:

Offence under Section	Sentence	Fine	Sentence in default of payment of fine
15 of NDPS Act	Rigorous imprisonment for 01 year each	Rs. 1,000/- each	Rigorous imprisonment for 03 months each

4. Learned Counsels for the appellants submit that they are not assailing the impugned judgment of conviction dated 13.01.2009 passed by learned Judge, Special Court, Mansa on merits and restrict their prayers to modification of the order on quantum of sentence dated 13.01.2009 to that of sentence already undergone by the appellants as appellant-Harpal Singh @ Pala has already undergone a period of 03 months and 22 days and appellant-Karnail Singh @ Barola has already undergone a period of 04 months and 02 days out of total sentence of 01 year each imposed upon them.

5. 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 appellants do not deserve any leniency. Moreover, both appellants are also involved in one more case. Thus, they do not deserve any leniency by this Court.

6. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the appellants were convicted for being in possession of 35 kilogram of poppy husk, attracting the offence under Section 15 of NDPS Act, for which no minimum punishment has been prescribed. As per their custody certificate, appellants have already undergone an actual sentence of 03 months and 22 days and 04 months and 02 days respectively out of total sentence of 01 year each, in the instant case. Moreover,

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learned counsels for the appellants have not assailed the judgment of conviction on merits. Rather, they have restricted their prayers only qua modification of order on quantum of sentence. 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 appellants is reduced to the period already undergone by them.

7. 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.

8. 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

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strike a balance between the efficacy of law and the chances of reformation of the accused.

9. Further, the primary consideration in matters where the petitioner/appellant is involved in other NDPS cases ought to be the severity of the offence. Moreover, Co-ordinate benches of this Court have deemed it appropriate to reduce the sentence imposed upon the accused to be the custody already undergone by them, in spite of their involvement in other cases pertaining to the NDPS Act in *Pritam Singh @ Preeti vs. State of Punjab* in *CRA-S-1769-SB-2010* decided on 03.04.2025, *Ram Lal vs. State of Haryana* in *CRA-S-986-SB-2005* decided on 11.05.2018, *Raj Pal vs. State of Haryana* in *CRA-S-68-SB-2005* decided on 28.04.2023, *Raj Pal vs. State of Haryana* in *CRA-S-34-SB-2005* decided on 28.04.2023 and *Gurmail Singh and others vs. State of Punjab* in *CRA-S-1976-SB-2007* decided on 28.03.2025

10. 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 23.11.2004 and the appellants have been suffering the agony of trial for last more than 20 years. Since their conviction, they have grown into law-abiding citizens and desire to live a peaceful life.

11. Therefore, in view of the discussion above, both the present appeals are disposed of in the following terms:-

- (i) The judgment dated 13.01.2009 passed by the learned Judge, Special Court, Mansa is upheld.
- (ii) The order of sentence dated 13.01.2009 is modified to the extent that the sentence of rigorous imprisonment for 01 year each along with fine of Rs. 1,000/- each with default mechanism

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awarded to the appellants is reduced to the period of sentence already undergone by them.

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

13. A photocopy of this order be placed on the file of other connected case.

(HARPREET SINGH BRAR)
JUDGE

08.05.2025*Ajay Goswami**Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*