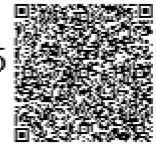
2025:PHHC:033645 

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

447

CRA-S-439-SB-2007 (O&M)
Date of decision: 10.03.2025

Darshan Singh

....Appellant

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Jagjit Gill, Advocate
for the appellant.

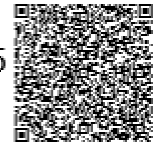
Mr. Harkesh Kumar, AAG, Haryana.

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 22.11.2006 passed by learned Sessions Judge, Sirsa whereby the appellant was convicted and sentenced for the offence punishable under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter 'the NDPS Act'), in the case stemming from FIR No.130 dated 26.7.2004, under Section 15 of the NDPS Act at Police Station Kalanwali.

2. The appellant was sentenced as mentioned below:

Offence	Sentence
Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985	Rigorous imprisonment for a period of 03 years and to pay fine of Rs.10,000/- and in default of payment of fine, to further undergo rigorous imprisonment for 06 months.

2025:PHHC:033645 

3. Brief facts of the case are that on 26.07.2004, a police party headed by ASI Ram Mehar Singh apprehended the appellant in the area of village Dadoo, with 20.200 Kgs of Chura Post and two samples 100 grams each were drawn from the bag and then sent to the chemical examiner for its examination and subsequently, FIR *(supra)* was registered under Section 15 of the NDPS Act.

4. Learned counsel for the appellant contends that he is not assailing the impugned judgment of conviction dated 22.11.2006 on merits and restricts his prayer qua modification of the order on quantum of sentence, to that of the sentence already undergone by the appellant, as he has already undergone a period of 07 months and 22 days and is not involved in any other case registered under the NDPS Act.

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, he 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 20.200 kgs of Chura Post, i.e. intermediate quantity, attracting the offence of Section 15 the NDPS Act, for which no minimum punishment has been prescribed. As per custody certificate, he is not involved in any other case registered under the NDPS Act and has already undergone an actual sentence of 07 months and 22 days out of total sentence of 03 years, in the instant case. Since there is no minimum punishment prescribed under Section 15

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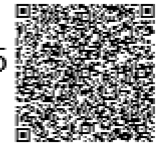

NDPS Act, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the appellant is reduced to the period already undergone by him.

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.

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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 26.07.2004 and the appellant has been suffering the agony of trial for the last about 21 years. Since his conviction, he 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 22.11.2006 passed by the learned Sessions Judge, Sirsa is upheld.

(ii) The order of sentence dated 22.11.2006 is modified to the extent that the sentence of rigorous imprisonment for a period of 03 years and fine of Rs.10000/- along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.

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

(HARPREET SINGH BRAR)
JUDGE

10.03.2025
yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No