



664 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRA-S-1869-SB-2007  
Date of decision: 27.03.2025

CHHINDER KAUR

...APPELLANT

V/S

STATE OF PUNJAB

...RESPONDENT

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

Present: Mr. Karanveer Singh, Advocate (*amicus curiae*) 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 25.08.2007 passed by learned Judge, Special Court, Bathinda, whereby the appellant 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.208 dated 22.10.2003, under Section 15 of the NDPS Act at Police Station Rampura.

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 <b>two years</b> and to pay fine of Rs.1,000/- and in default of payment of fine, to further undergo RI for 01 month.

3. Brief facts of the case are that on 22.10.2003, when ASI Mohri Lal along with other police officials was present near unmanned railway crossing in the area of Gill Kalan, in connection with patrolling, the appellant was spotted sitting on the edge of the road with a plastic bag in her left hand.



On seeing the police, out of nervousness, she tried to drag the bag towards one side. On suspicion, she was apprehended. Upon search of plastic bag, 18.750 kgs of Poppy Husk was recovered. Subsequently, FIR (*supra*) was registered under Section 15 of the NDPS Act.

4. Learned *amicus curiae* for the appellant *inter alia* contends that the prosecution has miserably failed to prove its case beyond the shadow of reasonable doubt. The entire prosecution case hinges upon the testimonies of official witnesses. He further contends that there is non-compliance of Section 57 of NDPS Act. Furthermore, the link evidence is missing from the chain of prosecution story. He submits that there is no evidence coming forth about the sample seal having been deposited with the MHC and further having been dispatched to the office of Chemical Examiner. He further submits that the seal, after use, was handed over to independent witness, namely, Gulzar Singh, who was associated with the police party, however, he was not examined by the prosecution. He furthermore submits that there is a delay in sending the sample to the office of Chemical Examiner. Lastly, he submits that the appellant has already undergone total custody period of 04 months and 24 days, out of total sentence of two years, in the instant case and she is not involved in any other case.

5. *Per contra*, learned State counsel opposes the prayer of the appellant as the learned Court below has passed a well-reasoned judgment based on correct appreciation of evidence available on record as such, she 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 18.750 kgs of Poppy Husk, which falls



under the purview of Section 15 NDPS Act. As per her custody certificate, she has already undergone an actual sentence of 04 months and 24 days out of total sentence of two years, in the instant case. Since there is no minimum punishment prescribed under Section 15 NDPS Act, for the non-commercial quantity 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 her.

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 trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. However, the FIR (*supra*) was lodged on 22.10.2003 and the appellant has been suffering the agony of trial for last more than 21 years. Since her conviction, she 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 dated 25.08.2007 passed by the learned Judge, Special Court, Bathinda is upheld.

(ii) The order of sentence of even date i.e. 25.08.2007 is modified to the extent that the sentence of rigorous imprisonment for two years and fine of Rs.1,000/- along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by her.

11. The High Court Legal Services Authority is directed to pay remuneration to the learned *Amicus Curiae* as per rules.

March 27, 2025  
*manisha*

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

- |      |                           |        |
|------|---------------------------|--------|
| (i)  | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable        | Yes/No |