



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

481

CRA-S-676-SB-2007 (O&M)

Date of decision: 18.03.2025

Chhoti

....Appellant

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amrit Singh Kang, 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 06.03.2007 passed by learned Judge, Special Court, Mansa 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.10 dated 30.01.2003 registered under Section 15 of the NDPS Act at Police Station Bhikhi.

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 06 months and to pay fine of Rs.3,000/- and in default of payment of fine, to further undergo rigorous imprisonment for 01 month. |

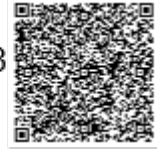


3. Brief facts of the case are that on 30.01.2003 during patrolling duty, when the police party headed by ASI Amrik Singh reached near the seepage drain situated in village Phaphre Bhai Ke, the appellant was seen coming from the opposite side carrying a plastic bag on her head. The appellant was observed acting suspiciously and on the basis of suspicion, she was apprehended and upon search, total 25 Kgs of Poppy Husk was recovered from the appellant's possession, in the presence of Deputy Superintendent of Police. 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 her guilt has not been proved beyond reasonable doubt. He contends that the entire case of the prosecution hinges upon the testimony of official witnesses and the prosecution has failed to prove the conscious possession of the contraband recovered from the appellant and there is a delay in sending the representative sample to FSL. Lastly, he submits that the appellant has already undergone a period of 01 month and 12 days in custody and she 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.

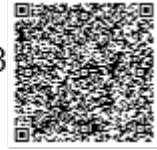
6. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the



appellant was convicted for being in possession of 25 kg 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, she is not involved in any other case and has already undergone an actual sentence of 01 month and 12 days out of total sentence of 06 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 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 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 30.01.2003 and the appellant has been suffering the agony of trial for the last about 22 years. Since her 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 06.03.2007 passed by the learned Judge, Special Court, Mansa is upheld.

(ii) The order of sentence dated 06.03.2007 is modified to the extent that the sentence of rigorous imprisonment for a period of 06 months and fine of Rs.3,000/- 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 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

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No