



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

456

CRA-S-514-SB-2007 (O&M)

Date of decision: 10.03.2025

Sheer

....Appellant

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. P.S. Sekhon, Advocate for the appellant.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. The instant appeal has been preferred against the judgment dated 03.03.2007 passed by the learned Judge, Special Court, Barnala at Sangrur, vide which the appellant was convicted under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') in FIR No.21 dated 30.03.2003 registered under Section 15 of the NDPS Act at Police Station GRP Sangrur and was sentenced to undergo rigorous imprisonment for a period of 02 years and to pay a fine of Rs.20,000/- along with default mechanism.

2. Brief facts of the case are that on 30.03.2003, ASI Nand Singh along with other police party was present at Platform No.1 at Railway Station, Barnala, and they saw one young lady coming from the back side of Ram Bagh, holding one blue coloured bag in her right hand. On seeing the police party, she became perplexed and thereafter, on the basis of suspicion, she was apprehended and recovery of 05 Kgs. Poppy Husk was effected from her. Two sample of 250 gms. each were

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separately drawn out of the same and a parcel was prepared. Subsequently, the FIR (supra) was registered against the accused/appellant.

3. Learned counsel for the appellant contends that he is not assailing the impugned judgment of conviction dated 03.03.2007 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 she has already undergone a period of 01 month and 19 days, and is not involved in any other criminal activity.

4. *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 and as such, she does not deserve any leniency.

5. 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 05 kgs of Poppy Husk, 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, she is not involved in any other case and has already undergone an actual sentence of 01 month and 19 days out of total sentence of 02 years, 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.



6. In *Deo Narain Mandal Vs. 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, the 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. Further, a two-Judge Bench of 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 conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

7. 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. Learned

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counsel for the appellant has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua modification of quantum of sentence.

8. The FIR in the present case was lodged on 30.03.2003 and the appellant has been suffering the agony of trial since the last 22 years. Since her conviction, the appellant has grown into a law-abiding citizen and desires to live a peaceful life.

9. Consequently, the present appeal is disposed of in the following terms:-

(i) The judgment dated 03.03.2007 passed by the learned Judge, Special Court, Barnala at Sangrur, is upheld, however, the order of sentence of even date, is modified to the extent that the sentence of rigorous imprisonment for a period of 02 years and fine of Rs.20,000/- along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by her.

10. All the pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

10.03.2025

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No