



CRA-S-1979-SB-2012 (O&M)

1

235

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

**CRA-S-1979-SB-2012 (O&M)
Date of Decision: 12.03.2025**

NAROTAM BANSAL

...APPELLANT

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Raageshwari, *Amicus Curiae*
for the appellant.

Mr. Nitesh Sharma, DAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. Present appeal has been preferred by the appellant against the judgment of conviction and order on quantum of sentence dated 02.05.2012 passed by learned Judge, Special Court, Patiala vide which the appellant has been convicted and sentenced as mentioned below:

Offence under Section	Sentence	Fine	Sentence in default of payment of fine
15 of NDPS Act	Rigorous imprisonment for two years	Rs. 2,000/-	Rigorous imprisonment for two months

2. Brief facts of the case are that on 26.10.2009, a police party headed by ASI Narinder Singh of CIA Staff alongwith other police officials, were on patrolling duty and when they reached near the T-point of village Lohana Teku, they saw the accused-appellant coming from the opposite side and he was carrying a plastic bag in his hand. On seeing the police party, the appellant got perplexed and tried to get down from the road. On suspicion, appellant was apprehended and his identity was verified. On the basis of suspicion, search of the appellant-accused and his belongings was conducted. Thereafter, on search of the bag carried by appellant-accused, it was found to be containing poppy

**CRA-S-1979-SB-2012 (O&M)**

husk, out of which two samples, each of 100 grams, were separated and the remaining poppy husk, on weightment, came to be 24.8 kilogram and it was converted into another parcel. All the parcels were sealed. FIR(*supra*) was registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as 'NDPS Act').

3. Learned *Amicus Curiae* submits that no independent witness was joined at the time of alleged recovery and the entire case of the prosecution hinges upon the deposition of the official witnesses. Central Forensic Science Laboratory Form was not prepared at the spot. Further there is a delay of 8 days in sending the representative sample to the office of chemical examiner. Moreover, the case property was not produced before the Court concerned and the discrepancies appearing in the statements of witnesses render the case of the prosecution doubtful. Lastly, he submits that the appellant has already undergone a period of almost 06 months out of total sentence of 02 years imposed upon him.

4. Per contra, learned State counsel opposes the prayer of the appellant 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 appellant 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 25 kilogram of poppy husk, attracting the offence under Section 15 of NDPS Act, for which no minimum punishment has been prescribed. As per his custody certificate, he has already undergone an actual sentence of 05 months and 29 days out of total sentence of 02 years, in the instant case. Since there is no minimum punishment prescribed under Section 15

**CRA-S-1979-SB-2012 (O&M)**

of 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.

6. In **Deo Narain Mandal v. State 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.

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

**CRA-S-1979-SB-2012 (O&M)****4**

8. 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 26.10.2009 and the appellant has been suffering the agony of trial for last more than 15 years. Since his conviction, he has grown into a law-abiding citizen and desires to live a peaceful life.

9. Therefore, in view of the discussion above, the present appeal is disposed of in the following terms:-

(i) The judgment dated 02.05.2012 passed by the learned Judge, Special Court, Patiala is upheld.

(ii) The order of sentence dated 02.05.2012 is modified to the extent that the sentence of rigorous imprisonment for two years along with fine of Rs. 2,000/- with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.

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

11. High Court Legal Services Committee is directed to pay remuneration to the *Amicus Curiae*, as per rules.

(HARPREET SINGH BRAR)
JUDGE

12.03.2025*Ajay Goswami**Whether speaking/reasoned*
*Whether reportable**Yes/No*
Yes/No