



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

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**CRA-S No.1532-SB-2007 (O&M)**

**Date of decision: 25.03.2025**

Sheelo and another

....Appellants

Versus

The State of Punjab

....Respondent

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

**Present:** Mr. Rajat Dogra, Advocate  
and Mr. Nishant Sehgal, Advocate  
for the appellants.

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 dated 25.07.2007 and order of sentence dated 26.07.2007 passed by learned Special Judge, Moga whereby the appellants were convicted and sentenced for the offence punishable under Section 15(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter 'the NDPS Act'), in the case stemming from FIR No.152 dated 05.12.2003 registered under Section 15 of the NDPS Act at Police Station Kot Ise Khan, District Moga.

2. The appellants were sentenced as mentioned below:

Offence	Sentence
Section 15(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985	Rigorous imprisonment for a period of 03 years each and to pay fine of Rs.5,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for 03 months each.

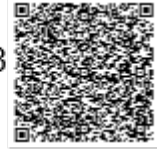


3. Brief facts of the case are that on 05.12.2003, a police party headed by ASI Baljinder Singh on the basis of suspicion, apprehended the accused/appellants with 34.250 Kgs. of Poppy Husk and subsequently, FIR (*supra*) was registered under Section 15 of the NDPS Act.

4. Learned counsel for the appellants contends that he is not assailing the impugned judgment of conviction dated 25.07.2007 on merits and restricts his prayer qua modification of the order on quantum of sentence, to that of the sentence already undergone by the appellants, as the appellant – Sheelo has undergone a period of 04 months and 27 days and the appellant – Murti has undergone a period of 04 months and 29 days and they are not involved in any other criminal activity.

5. *Per contra*, learned State counsel opposes the prayer of the appellants 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, they do 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 appellants were convicted for being in possession of 34.250 Kgs. of Poppy Husk, i.e. intermediate quantity, attracting the offence of Section 15(b) of the NDPS Act, for which no minimum punishment has been prescribed. As per custody certificate, the appellants are not involved in any other case and the appellant – Sheelo has undergone a period of 04 months and 27 days whereas the appellant – Murti has undergone a



period of 04 months and 29 days out of total sentence of 03 years each, in the instant case. Since there is no minimum punishment prescribed under Section 15(b) of the NDPS Act, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the appellants is reduced to the period already undergone by them.

7. 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.

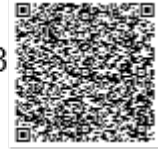
8. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Learned counsel for the appellants has not assailed the judgment of conviction on merits, rather restricted the prayer only qua modification of quantum of sentence to that of the sentence already undergone by the appellants.

9. The FIR in the present case was registered on 05.12.2003 and the appellants have been suffering the agony of trial since the last more than 21 years. Since their conviction, the appellants have grown into a law-abiding citizen and desire to live a peaceful life.

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

***(i) The judgment of conviction dated 25.07.2007 passed by the learned Special Judge, Moga is upheld.***

***(ii) The order of sentence dated 26.07.2007 is modified to the extent that the sentence of rigorous imprisonment for a period of 03 years each and fine of Rs.5000/- each along with default mechanism awarded to the appellants is reduced to the period of sentence already undergone by them.***



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

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

**25.03.2025**

*yakub*

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No