

CRA-S-1421-SB-2008

**1007 IN THE PUNJAB AND HARYANA HIGH COURT  
AT CHANDIGARH**

Decided on:30.04.2025

**CRA-S-1421-SB-2008**

Pardeep Kumar @ Pardeep Singh .... Appellant

versus

State of Punjab .... Respondent

**CRA-S-1804-SB-2008**

Surjit Singh .... Appellant

versus

State of Punjab .... Respondent

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present: Ms. Parul Saini, Advocate (Amicus Curiae)  
for the appellants.

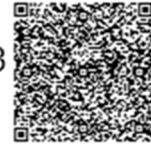
Mr. Rishabh Singla, AAG, Punjab.

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**Harpreet Singh Brar, J. (Oral)**

This order will dispose of abovesaid two appeals as both of them have arisen out of the same FIR. Brief facts of the case are taken from CRA-S-1421-SB-2008.

1. The prayer in the present appeal is to set aside the judgment of conviction and order of sentence dated 30.07.2008 passed by learned Judge, Special Court, Sangrur whereby the appellant(s) was/were convicted and sentenced for the offence punishable under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'NDPS Act'), in the case stemming from FIR No.284 dated 15.07.2003 registered under Section 18 of NDPS Act at Police Station Kotwali Sangrur.



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2. The appellant(s) was/were sentenced for keeping in his/their possession 40 grams of opium, as mentioned below:

Offence	Sentence
Section 18 of NDPS Act	Rigorous imprisonment for a period of one year and to pay fine of Rs.5,000/- each and in default of payment of fine, to further undergo RI for one month.

3. Learned amicus curiae for the appellant(s) *inter alia* submits that the appellant Pardeep Kumar @ Pardeep Singh was arrested on 31.01.2004 i.e. after more than six months from the occurrence and nothing was recovered from the personal search of the appellant or the co-accused Surjit Singh. The prosecution has miserably failed to prove the conscious possession of contraband from the appellant(s). The trial Court has failed to appreciate this vital fact and convicted the appellant(s) only on the sole testimony of Constable Baljit Singh, PW-4. Further, there are material contradictions in the deposition of the prosecution witnesses. As per the custody certificates, the appellant Pardeep Kumar @ Pardeep Singh has undergone a period of 01 month and 07 days while appellant Surjit Singh has undergone a period of 03 months and 05 days and is/are not involved in any other case.

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 as such, he/they does/do 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(s) was/were convicted for being in possession of 40 grams of opium, which falls

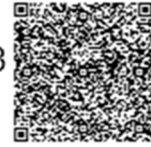


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under the purview of Section 18 of NDPS Act. As per the custody certificates, appellant Pardeep Kumar @ Pardeep Singh has undergone a period of 01 month and 07 days while appellant Surjit Singh has undergone a period of 03 months and 05 days out of total sentence of 01 year in the instant case and is/are not involved in any other case. Since there is no minimum punishment prescribed under Section 18 of 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 him.

6. 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.

7. 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



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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.

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. However, the FIR (*supra*) was lodged on 15.07.2003 and the appellants have been suffering the agony of trial for last more than 21 years. Since his/their conviction, he/they has/have grown into law-abiding citizen(s) and desires to live a peaceful life.

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

(i) The judgment dated 30.07.2008 passed by the learned Judge, Special Court, Sangrur is upheld.

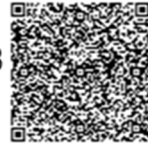
(ii) The order of sentence dated 30.07.2008 is modified to the extent that the sentence of rigorous imprisonment for 01 year and fine of Rs.5,000/- each along with default mechanism awarded to the appellant(s) is reduced to the period of sentence already undergone by him/them.

10. The High Court Legal Services Authority is directed to pay remuneration to learned *Amicus Curiae* as per rules in both cases.

11. Pending miscellaneous applications, if any, shall also stands disposed of.

30.04.2025  
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**(HARPREET SINGH BRAR)**  
**JUDGE**



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Whether speaking/non-speaking?  
Whether reportable?

Yes/No  
Yes/No