



CRA-S-1482-SB-2007 (O&M)

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

**CRA-S-1482-SB-2007 (O&M)
Date of Decision: 25.03.2025**

RAM SARUP @ REESHAL

...APPELLANT

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sahilpreet Singh, *Amicus Curiae*
for the appellant.

Mr. Rishabh Singla, AAG 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 23.07.2007 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 2½ years	Rs. 2,000/-	Rigorous imprisonment for one month

2. Brief facts of the case are that on 26.11.2003, ASI Satnam Singh of CIA Staff along with other police officials, in connection with patrolling were present at Smadh Peer Baba near road leading from Rohti Chhanna towards Lubana, when appellant-Ram Sarup was seen coming while carrying a gunny bag on his head. On seeing the police party, appellant turned back, but he was apprehended on suspicion and upon asking, the said person disclosed his name as Ram Sarup. On the basis of suspicion, search of the appellant-accused along with his belongings was conducted. Thereafter, on search of gunny bag, held by the appellant, poppy husk was recovered. Out of the bulk of poppy husk, two

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samples each of 25 grams were separated and remainder was found to be 30 kilograms including the weight of the bag. 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* for the appellant *inter alia* contends that there are material discrepancies in the testimonies of prosecution witnesses which goes to the root of the matter and makes the story of the prosecution highly improbable and no independent witness was joined during investigation, however, the place of recovery is a thoroughfare and there is no explanation given by the Investigating Officer for not joining the independent witness. Further there is non-compliance of Sections 42 and 50 of NDPS Act as the search was conducted by ASI Satnam Singh, who is the Investigating Officer and complainant in the present case. Moreover, the representative sample was sent to the office of Chemical Examiner after a delay of 13 days as the recovery was effected on 26.11.2003 and the sample was sent to Forensic Science Laboratory on 09.12.2003. As per the order granting suspension of sentence to the appellant, he has undergone 04 months and 05 days of custody out of total 2½ years of sentence awarded to 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 30 kilograms 50 grams of poppy husk, attracting the offence under Section 15 of NDPS Act, for which no minimum punishment has

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been prescribed. As per order dated 11.10.2007, appellant has already undergone custody of 04 months and 05 days out of total sentence of two and half years, in the instant case. Since there is no minimum punishment prescribed under Section 15 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 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

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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 said judgment is based on correct appreciation of evidence available on record. However, the FIR (supra) was lodged on 26.11.2003 and the appellant has been suffering the agony of trial for last more than 21 years. Since his conviction, the appellant has reformed into a law-abiding citizen and intends 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 23.07.2007 passed by the learned Judge, Special Court, Patiala is upheld.

(ii) The order of sentence dated 23.07.2007 is modified to the extent that the sentence of rigorous imprisonment for 2½ 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

25.03.2025

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No