



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

**CRA-S-894-SB-2007  
Date of decision: 18.03.2025**

**BALWINDER SINGH @ SUKHA AND ANOTHER**  
**...APPELLANTS**  
**V/S**

**STATE OF PUNJAB**  
**...RESPONDENT**

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

Present: Mr. Ashish Grover, Advocate for the appellants.

Mr. Rishabh Singla, AAG, Punjab.

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**HARPREET SINGH BRAR, J. (ORAL)**

1. The prayer in the present appeal is to set aside the judgment of conviction and order of sentence dated 07.04.2007 passed by learned Judge, Special Court, Bathinda, whereby the appellants were convicted and sentenced for the offence punishable under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'NDPS Act'), in the case stemming from FIR No.24 dated 06.03.2004 registered under Section 15 of NDPS Act at Police Station Raman.

2. The appellants were sentenced as mentioned below:

<b>Offence</b>	<b>Sentence</b>
<b>Section 15</b> of the Narcotic Drugs and Psychotropic Substances Act, 1985	Rigorous imprisonment for a period of <b>two years</b> and to pay fine of Rs.2,500/- each and in default of payment of fine, to further undergo rigorous imprisonment for 15 days each.



3. Brief facts of the case are that on 06.03.2004, ASI Subeg Singh along with one Darshan Singh was going for patrolling. At about 10:00 AM, when he reached on the culvert of a canal minor in the area of village Malkana, he spotted both the accused/appellants while holding a plastic bag from its ends. On seeing the police gypsy, they thrown the bag on the ground and tried to run away but they were apprehended. The mouth of the bag was open and poppy husk was visible. Upon search of bag, 23 kgs. of Poppy Husk was recovered. Subsequently, FIR (*supra*) was registered under Section 15 of the NDPS Act.

4. Learned Counsel for the appellants submits that he is not assailing the impugned judgment of conviction dated 07.04.2007 passed by learned Judge, Special Court, Bathinda on merits and restricts his prayer to modification of the order on quantum of sentence of even date i.e. 07.04.2007 to that of sentence already undergone by the appellants as appellant, namely, Balwinder Singh has already undergone a total custody period of 03 months and 06 days and appellant, namely, Shinda Singh has undergone a total custody period of 05 months and 04 days, out of total sentence of two years imposed upon them and they are not involved in any other case.

5. *Per contra*, learned State counsel opposes the prayer of the appellants as 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 23 kgs of Poppy Husk, which falls under



the purview of Section 15 NDPS Act. As per their custody certificate, they are not involved in any other case and appellant, namely, Balwinder Singh has already undergone a total custody period of 03 months and 06 days and appellant, namely, Shinda Singh has undergone a total custody period of 05 months and 04 days, out of total sentence of two years, in the instant case. Since there is no minimum punishment prescribed under Section 15 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 appellants is reduced to the period already undergone by them.

7. 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.

8. 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 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.

9. 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 06.03.2004 and the appellants have been suffering the agony of trial for last about 21 years. Since their conviction, they have grown into law-abiding citizens and desire to live a peaceful life.

10. Therefore, in view of the discussion above, both the appeals are disposed of in the following terms:-

(i) The judgment dated 07.04.2007 passed by the learned Judge, Special Court, Bathinda is upheld.

(ii) The order of sentence dated 07.04.2007 is modified to the extent that the sentence of rigorous imprisonment for 02 years and fine of Rs.2,500/- each along with default mechanism awarded to the appellants is reduced to the period of sentence already undergone by them.

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

**March 18, 2025**  
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|------|---------------------------|--------|
| (i)  | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable        | Yes/No |