

CRA-S-1427-SB-2008

**1009 IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH**

CRA-S-1427-SB-2008
Decided on:30.04.2025

Narain Singh and another Appellants

versus

State of Haryana Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Anmol Jeevan Singh Gill, Advocate (Amicus Curiae)
for the appellants.

Mr. Harkesh Kumar, AAG, Haryana.

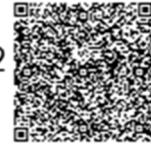
Harpreet Singh Brar, J. (Oral)

1. The prayer in the present appeal is to set aside the judgment of conviction and order of sentence dated 01/02.08.2008 passed by learned Judge, Special Court, Karnal 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 referred to as 'NDPS Act'), in the case stemming from FIR No.308 dated 08.10.2005 registered under Section 15 of NDPS Act at Police Station Nissing.

2. The appellants were sentenced for keeping in his possession 8 kgs of poppy husk, as mentioned below:

Offence	Sentence
Section 15(b) of NDPS Act	Rigorous imprisonment for a period of one year and to pay fine of Rs.10,000/- each and in default of payment of fine, to further undergo RI for 03 months.

3. Learned State counsel, at the very outset, on instructions from SI Ajaib Singh, submits that during the pendency of present appeal, appellant-



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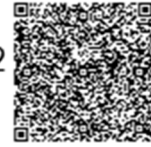
Wazir Singh has passed away. He produces the Certificate issued by the Sarpanch of the village of appellant – Wazir Singh, which is taken on record.

4. In view of the above, the proceedings qua appellant-Wazir Singh stand abated.

5. Learned amicus curiae for the appellant-Narain Singh *inter alia* submits that the appellant has been falsely implicated in the present case. The timeline in which the ruqa was sent through Constable Gurlal Singh and special report sent to Ilaqa Magistrate could not be the same, and also the same at the time of registration of FIR, which clearly indicates that the jurisdictional police authorities have done the entire work sitting in the police station and appellant has been falsely implicated. Further, the link evidence is missing in the case. PW-2 in his cross-examination has submitted that when the case property was produced before him, there is only one seal of PS on the sample parcels and he affixed one seal on the same. However, when the sample reached the FSL, it was having four seals, which proves that the case property was tampered with. Further, the seal after use was handed over to the subordinate officials of ASI Prem Singh. No independent witness was joined during investigation. Lastly, there is total non-compliance of Section 50 of NDPS Act. As per the custody certificate, the appellant has undergone a period of 01 month and 25 days and is not involved in any other case.

6. *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 does not deserve any leniency.

7. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the appellant was

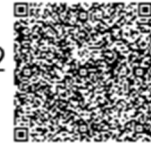


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convicted for being in possession of 8 kgs of poppy husk, which falls under the purview of Section 15 of NDPS Act. As per the custody certificate, the appellant has undergone a period of 01 month and 25 days out of total sentence of 01 year in the instant case and is not involved in any other case. Since there is no minimum punishment prescribed under Section 15 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.

8. 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.

9. 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



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

10. 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 08.10.2005 and the appellant has been suffering the agony of trial for last more than 19 years. Since his conviction, he has grown into law-abiding citizen and desires to live a peaceful life.

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

(i) The judgment dated 01.08.2008 passed by the learned Judge, Special Court, Karnal is upheld.

(ii) The order of sentence dated 02.08.2008 is modified to the extent that the sentence of rigorous imprisonment for 01 year and fine of Rs.10,000/- along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.

12. The High Court Legal Services Authority is directed to pay remuneration to learned *Amicus Curiae* as per rules.

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

30.04.2025
sonia

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/non-speaking?
Whether reportable?

Yes/No
Yes/No