



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

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**CRA-S-2536-SB-2009 (O&M)**

**Date of decision: 07.03.2025**

Harjit Singh

....Appellant

Versus

State of Punjab

....Respondent

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

**Present:** Mr. Mansur Ali, Advocate  
with Mr. Tushar Madaan, Advocate  
for the appellant.

Mr. Sandeep Kumar, DAG, Punjab.

**HARPREET SINGH BRAR J. (Oral)**

1. The instant appeal has been preferred against the judgment of conviction and order on quantum of sentence dated 14.10.2009 passed by the learned Judge, Special Court, Patiala, in FIR No.10 dated 30.01.2005 registered under Section 15/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station Sadar Rajpura, District Patiala, vide which the appellant was convicted under Section 15 of the NDPS Act and sentenced to undergo rigorous imprisonment for a period of 02 years and to pay a fine of Rs.3,000/- along with default mechanism.

2. Brief facts of the case are that on 30.01.2005, ASI Raghbir Singh along with other police officials, was patrolling near the turning point of link road Bapraur on GT Road. The accused/appellant was seen

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approaching with a bag on his head. Upon noticing the police, he became suspicious and attempted to flee towards the fields but was apprehended. Upon inquiry, the accused/appellant disclosed his whereabouts. Thereafter, the Investigating Officer informed the accused about his right to have his bag searched in the presence of a Gazetted Officer or a Magistrate, but the accused/appellant gave his consent to get his search conducted by the Investigating Officer. During the search, poppy husk was found in the bag. Two samples of 100 grams each were taken out, and the remaining poppy husk, weighing 19 kg 800 grams, was seized. The samples and the bag were sealed with the seal of the Investigating Officer and a recovery memo was prepared. Thereafter, a ruqa was sent to the police station, which led to registration of the FIR (supra).

3. After appreciating the entire facts and evidence, the appellant was convicted and sentenced vide judgement of conviction and order of sentence dated 14.10.2009 passed by the learned Judge Special Court, Patiala.

4. Learned counsel for the appellant, *inter alia*, contends that the independent witness joined during the investigation has not been examined by the prosecution and the entire case of the prosecution is rest upon the testimony of the official witnesses. Learned counsel for the appellant further submits that since the appellant is 55 years of age, he is not assailing the impugned judgment of conviction dated 14.10.2009 on merits and restricts his prayer qua modification of the



order on quantum of sentence, to that of the sentence already undergone by the appellant, as he has already undergone a period of 02 months and 20 days and is not involved in any other criminal case.

5. *Per contra*, learned State counsel opposes the prayer of the appellant, as the learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record and as such, he does 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 appellant was convicted for being in possession of 20 kgs of Poppy Husk, i.e. intermediate quantity, attracting the offence of Section 15 of the NDPS Act, for which no minimum punishment has been prescribed. As per custody certificate, he is not involved in any other case and has already undergone an actual sentence of 02 months and 20 days out of total sentence of 02 years, in the instant case. Since there is no minimum punishment prescribed under Section 15 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.

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 Court below indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. However, the FIR (supra) was registered on 30.01.2005 and the appellant has been suffering the agony of trial for the last about 20 years. Since his conviction, the appellant has grown into a law-abiding citizen and desires to live a peaceful life.



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

*(i) The judgment of conviction dated 14.10.2009 passed by the learned Judge, Special Court, Patiala is upheld, however, the order of sentence of even date, is modified to the extent that the sentence of rigorous imprisonment for 02 years and fine of Rs.3,000/- along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.*

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

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

**07.03.2025**

*yakub*

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No