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

CRA-S-993-SB-2007

Date of decision: 21.03.2025

Ruldu Singh

....Appellant

Versus

State of Punjab

...Respondent

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

**Present:** Mr. Sanjiv Manrai, Senior Advocate and  
Mr. Rohit Bhardwaj, Advocate  
for the appellant.

Mr. Rishabh Singla, AAG, Punjab.

**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 05.05.2007 passed by learned Judge, Special Court, Bathinda, whereby, the appellant was convicted and sentenced for the offence punishable under Section 15(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter 'NDPS Act'), in the case stemming from FIR No.182 dated 23.09.2003, under Section 15 of the NDPS Act at Police Station Rampura.

2. The appellant was sentenced as mentioned below:

Offence	Sentence
<b>Sections 15 (b)</b> of the Narcotic Drugs and Psychotropic Substances Act, 1985	Rigorous imprisonment for a period of <b>nine months</b> and to pay fine of Rs.2,500/- and in default of payment of fine, to further undergo rigorous imprisonment for ten days.

3. Brief facts of the case are that on 23.09.2003 ASI Rajbir Singh along with other police officials and a public man, namely, Jagrup Singh, was on patrolling duty and when he reached 02 km ahead from village Chauke, he



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spotted the accused/appellant standing with a bicycle on the left side of link road carrying one plastic bag. The appellant was apprehended with 13 Kg 500 grams of Poppy Husk and two samples of 25 grams each were drawn from the bag and then sent to the chemical examiner. Subsequently, FIR (*supra*) was registered under Section 15 of the NDPS Act.

4. Learned counsel for the appellant submits that the learned Court below has fallen into grave error in convicting the appellant, as his guilt has not been proved beyond reasonable doubt. It is contended that there is non-compliance of Section 57 of the NDPS Act. Further, there are material discrepancies and contradictions in the statements of the prosecution witnesses and the link evidence is missing in the present case. There is unexplained delay of 06 days in dispatching the sample of the contraband in the office of Chemical Examiner and affidavit of Ex.PA-Constable Nirmal Singh does not specify the time when the parcels were deposited. The alleged independent witness, namely, Jagroop Singh in his statement stated that in his presence and in the presence of Gian Chand Panch, ASI Rajbir Singh conducted the search of the house of the appellant and nothing incriminating was recovered, as such, the appellant has been falsely implicated in the present case. Lastly, he submits that the appellant has already undergone an actual period of 02 months and 27 days in custody and the appellant is not involved in any other criminal activity.

5. *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.



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 13 kg 500 grams of Poppy Husk, i.e. intermediate quantity, attracting the offence of Section 15 (b) of the NDPS Act, for which no minimum punishment has been prescribed. As per his custody certificate, he is not involved in any other case and has already undergone an actual sentence of 02 months and 27 days out of total sentence of 09 months, in the instant case. Since there is no minimum punishment prescribed under Section 15 (b) 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 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



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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 23.09.2003 and the appellant has been suffering the agony of trial for last more than 21 years. Since his conviction, he has grown into a law-abiding citizen and desires to live a peaceful life.

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

(i) The judgment dated 05.05.2007 passed by the learned Judge, Special Court, Bathinda, is upheld.

(ii) The order of sentence dated 05.05.2007 is modified to the extent that the sentence of rigorous imprisonment for 09 months with fine of Rs.2,500/- along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.

11. Pending miscellaneous application(s), if any, shall also stand disposed of.

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

**21.03.2025**

*Neha*

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No