



CRA-S-6-SB-2008 (O&M) and one more case

1

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

**1. CRA-S-6-SB-2008 (O&M)
Date of Decision: 02.04.2025**

MANJIT ...APPELLANT

Versus

STATE OF HARYANA ...RESPONDENT

**2. CRA-S-31-SB-2008 (O&M)
Date of Decision: 02.04.2025**

DEEPAK ...APPELLANT

Versus

STATE OF HARYANA ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vikram Singh and Mr. Sukhdev Singh, Advocates
for the appellant in CRA-S-6-SB-2008 and
Mr. Jitender Handa and Ms. Suman Sagar, Advocate
for appellant in CRA-S-31-SB-2008.

Mr. Harkesh Kumar, AAG Haryana.

Harpreet Singh Brar, J. (Oral)

1. Both the aforementioned appeals are decided by this common order, as both the appeals are arising out of same judgment of conviction and order of sentence.

2. The prayers in the present appeal(s) are to set aside the judgment of conviction and order on quantum of sentence dated 18.12.2007/19.12.2007 passed by learned Additional Sessions Judge, Hisar, whereby the appellants were convicted and sentenced for the offence punishable under Section 20 of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as 'NDPS Act') in the case stemming from FIR No. 714 dated 08.10.2004 registered at Police Station Sadar Hisar.

3. The appellants were sentenced for being in their possession 200



CRA-S-6-SB-2008 (O&M) and one more case

2

grams of *Charas*, as mentioned below:

Offence under Section	Sentence	Fine	Sentence in default of payment of fine
20 of NDPS Act	Rigorous imprisonment for 03 years each	Rs. 5,000/- each	Rigorous imprisonment for 02 months each

4. Learned Counsel for the appellants submit that they are not assailing the impugned judgment of conviction dated 18.12.2007 passed by learned Additional Sessions Judge, Hisar on merits and restricts their prayers to modification of the order on quantum of sentence dated 19.12.2007 to that of sentence already undergone by the appellants as appellant-Manjit has already undergone a period of 03 months and 03 days and appellant-Deepak has already undergone a period of 03 months and 09 days, out of total sentence of 03 years each imposed upon them and they are not involved in any other case.

5. Per contra, learned State counsel opposes the prayer of the appellants 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 appellants 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 200 grams of *Charas*, attracting the offence under Section 20 of NDPS Act, for which no minimum punishment has been prescribed. As per their custody certificates, they are not involved in any other case and have already undergone actual sentences of 03 months 03 days and 03 months 09 days respectively, out of total sentence of 03 years each awarded to them. Moreover, learned counsels for the appellants have not assailed the judgment of conviction on merits. Rather, they have restricted their prayers only

**CRA-S-6-SB-2008 (O&M) and one more case**

qua modification of order on quantum of sentence. Since there is no minimum punishment prescribed under Section 20 of NDPS Act, this Court is of the opinion that it would be in the interest of justice, if the sentences awarded to the appellants are reduced to the period already undergone by them.

7. 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.

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

**CRA-S-6-SB-2008 (O&M) and one more case****4**

9. 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 08.10.2004 and the appellants have been suffering the agony of trial for last more than 20 years. Since their conviction, they have grown into law-abiding citizens and desire to live peaceful lives.

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

(i) The judgment dated 18.12.2007 passed by the learned Additional Sessions Judge, Hisar is upheld.

(ii) The order of sentence dated 19.12.2007 is modified to the extent that the sentence of rigorous imprisonment for 03 years along with fine of Rs. 5,000/- each with default mechanism awarded to the appellants is reduced to the period of sentence already undergone by them.

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

12. A photocopy of this order be placed on the file of other connected case.

(HARPREET SINGH BRAR)
JUDGE

02.04.2025*Ajay Goswami**Whether speaking/reasoned
Whether reportable**Yes/No
Yes/No*