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

**CRA-S-1397-SB-2007 (O&M)
Date of Decision: 20.05.2025**

AJAIB SINGH

...APPELLANT

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kartik Gandhi, Advocate as *Amicus Curiae*
for the appellant.

Mr. Rishabh Singla, AAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. Present appeal has been preferred by the appellant against the judgment of conviction and order on quantum of sentence dated 05.07.2007 passed by learned Judge, Special Court, Sangrur vide which the appellant has been convicted and sentenced as mentioned below:

Offence under Section	Sentence	Fine	Sentence in default of payment of fine
15 of NDPS Act	Rigorous imprisonment for five years	Rs. 5,000/-	Rigorous imprisonment for one year

2. Brief facts of the case are that on 12.06.2004, a police party headed by SI Pushpinder Singh (PW-2) and other police officials were present in their official vehicle bearing No. PB-13L-7209 in connection with patrolling duty and they were going from village Kherri Jattan towards village Issru and when the police party reached on the bridge of drain in the area of village Kherri Jattan, at about 04.00 PM, on the right embankment of the drain, a person was seen coming carrying a plastic bag on his head and on the basis of suspicion, he was apprehended and his name and address was verified. On the basis of suspicion, search of the appellant along with his belongings was conducted and upon

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search of plastic bag carried by him, poppy husk was recovered. Out of the total quantity of poppy husk, two samples of 250 grams each were separated and the remaining poppy husk was found to be 31.500 kilograms. All the parcels were sealed and FIR was registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as 'NDPS Act').

3. Learned *Amicus Curiae* for the appellant *inter alia* contends that entire case of the prosecution hinges upon the testimonies of official witnesses. One Kewal Singh was associated during investigation, however he was not examined at the time of prosecution evidence, which renders the case set up by the prosecution highly doubtful. Further, neither the CFSL form was filled up at the spot nor the same was deposited with the MHC along with the case property. Most of the seals on the bulk parcels were found to have been discrepant. Further, there are glaring contradictions between the testimonies of PW-1 ASI Darshan Singh and PW-2 SI Pushpinder Singh and perusal of exhibit P-2 indicates that impression of seal G.S. is not mentioned therein. The appellant has undergone actual custody of 01 year 02 months and 12 days out of total sentence of 05 years awarded to him and he is not involved in any other case.

4. Per contra, learned State counsel opposes the prayer of the appellant 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 appellant does not deserve any leniency.

5. 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 32 kilograms of poppy husk, attracting the offence under Section 15 of NDPS Act, for which no minimum punishment has been prescribed. Perusal of custody certificate of the appellant indicates that he is not

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involved in any other case and has already undergone custody of 01 year 02 months and 12 days out of total sentence of 05 years, in the instant case. Since there is no minimum punishment prescribed under Section 15 of 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.

6. 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.

7. 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.



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8. 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 12.06.2004 and the appellant has been suffering the agony of trial for last more than 20 years. Since his conviction, the appellant has reformed into a law-abiding citizen and intends 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 05.07.2007 passed by the learned Judge, special Court, Sangrur is upheld.

(ii) The order of sentence dated 05.07.2007 is modified to the extent that the sentence of rigorous imprisonment for 05 years along with fine of Rs. 5,000/- 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.

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

(HARPREET SINGH BRAR)
JUDGE

20.05.2025

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No