



CRA-S-937-SB-2008 (O&amp;M)

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927 IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CRA-S-937-SB-2008 (O&M)  
Date of Decision: 26.05.2025

HARDYAL SINGH @ DIAL SINGH

...APPELLANT

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amaninder Preet Singh, Advocate as *Amicus Curiae*  
for the appellant.

Mr. Rishabh Singla, AAG Punjab.

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**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 07.05.2008 passed by learned Special Judge, Moga vide which the appellant has been convicted and sentenced as mentioned below:

Offence under Section	Sentence	Fine	Sentence in default of payment of fine
18 of NDPS Act	Rigorous imprisonment for six years	Rs. 25,000/-	Rigorous imprisonment for one year

2. Brief facts of the case are that on 30.05.2005, SI Tehal Singh along with other police officials were present on government vehicle i.e. Mini Bus bearing No. PB 29D 9040, in connection with checking of suspicious persons from the village *Lande Ke* to link road village *Dhalle Ke*. When, the police party reached near the bridge of canal minor within the revenue limits of village *Lande Ke*, they saw a person coming on foot from the front side carrying a hand bag/Jhola in his hand, who on seeing the police party turned towards his left hand on the *parti* of canal minor. However, he was apprehended and his name and address was verified. Thereafter, on the basis of suspicion, his personal



search along with search of the plastic bag carried by him was conducted, which was found to be containing 02 kilograms of opium, which was wrapped in a polythene paper. Two samples of 10 grams each were separated from the total quantity of opium. All the parcels were sealed and FIR was registered under Section 18 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 during investigation, one Charat Singh was joined as independent witness, but he was not produced by the prosecution during the course of trial. However, he appeared as defence witness and completely demolished the case set up by the prosecution. Admittedly the CFSL form was neither filled up at the spot nor the same was deposited with the MHC along with the case property. Further, seal after use was handed over to ASI Paramjit Singh. Surprisingly, the FIR number was mentioned on the memos, which were prepared after registration of the FIR(supra), which creates a serious doubt on the case set up by the prosecution. Further, Dilbag Singh, who was the attesting witness to the consent memo Ex. P1, has not been examined by the prosecution. The appellant has undergone actual custody of 09 months and 15 days out of total sentence of 06 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 as such, he 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 02 kilograms of opium, attracting the offence under



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Section 18 of NDPS Act, for which no minimum punishment has been prescribed. Perusal of custody certificate of the appellant indicates that he is not involved in any other case and has already undergone custody of 09 months and 15 days out of total sentence of 06 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



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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 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 30.05.2004 and the appellant has been suffering the agony of trial for last almost 21 years. Since his conviction, the appellant has reformed into a law-abiding citizen and intends to live a peaceful life.

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

(i) The judgment dated 07.05.2008 passed by the learned Special Judge, Moga is upheld.

(ii) The order of sentence dated 07.05.2008 is modified to the extent that the sentence of rigorous imprisonment for 06 years along with fine of Rs. 25,000/- with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.

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

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

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

**26.05.2025**

*Ajay Goswami*

*Whether speaking/reasoned*

*Whether reportable*

*Yes/No*

*Yes/No*