



CRA-S-1600-SB-2008 (O&amp;M)

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

**CRA-S-1600-SB-2008 (O&M)  
Date of Decision: 01.05.2025**

BHURI

...APPELLANT

Versus

STATE OF PUNJAB

...RESPONDENT

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

Present: Mr. Sukhcharan S. Gill, 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 23.08.2008 passed by learned Judge, Special Court, Patiala vide which the appellant has been convicted and sentenced as mentioned below:

<b>Offence under Section</b>	<b>Sentence</b>	<b>Fine</b>	<b>Sentence in default of payment of fine</b>
15 of NDPS Act	Rigorous imprisonment for 01 year	Rs. 3,000/-	Rigorous imprisonment for one month

2. Brief facts of the case are that on 24.12.2004, ASI Baldev Raj along with other police officials were present at Bus Stand Dugal Kalan, where an informer imparted secret information that a lady is selling poppy husk while sitting on the Pahi on Dugal-Lehra Road and if raid is conducted, she can be apprehended. Finding the secret information reliable, a telephonic call was made to P.S. Sadar, Patran for sending a lady constable at the spot, on which lady constable Surinder Kaur reached at the place of recovery. Then police party conducted the raid and accused-appellant was found sitting in the Pahi, having poppy husk in a plastic bag. A plastic box was lying nearby. On the basis of



suspicion, search of the accused-appellant and her belongings was conducted. Thereafter, on search of plastic box, carried by the appellant, poppy husk was recovered. Out of the poppy husk, two samples each of 100 grams were separated and remaining on weighment was found to be 9.8 kilograms. All the parcels were sealed. FIR(*supra*) 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 the appellant has been falsely implicated in the present case and prosecution story hinges upon the testimonies of official witnesses and during the course of investigation, one independent witness was joined, who was not examined by the prosecution. Further, there is non-compliance of mandatory provisions of Section 50 of NDPS Act and there are material discrepancies in the testimonies of official witnesses as well as other witnesses. Further, the Investigating Officer, himself is the complainant and the appellant is not involved in any other case and has undergone a period of 02 months and 12 days of custody out of total sentence of 01 year awarded to her.

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 10 kilograms of poppy husk, attracting the offence under Section 15 of NDPS Act, for which no minimum punishment has been prescribed. Appellant has already undergone custody of 02 months and 12 days



out of total sentence of 01 year, 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 her.

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 24.12.2004 and the appellant has been suffering the agony of trial for last more than 20 years. Since her 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 23.08.2008 passed by the learned Judge, Special Court, Patiala is upheld.

(ii) The order of sentence dated 23.08.2008 is modified to the extent that the sentence of rigorous imprisonment for 01 year along with fine of Rs. 3,000/- with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by her.

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

11. High Court Legal Services Committee is directed to pay remuneration to the *Amicus Curiae*, as per rules.

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

**01.05.2025***Ajay Goswami**Whether speaking/reasoned*  
*Whether reportable**Yes/No*  
*Yes/No*