



CRA-S-1040-SB-2008 (O&M)

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947 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-1040-SB-2008 (O&M)
Date of Decision: 26.05.2025

ROOP SINGH

...APPELLANT

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. T.P.S. Bawa, 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 03.05.2008/05.05.2008 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
15(b) of NDPS Act	Rigorous imprisonment for one year	Rs. 2,000/-	Rigorous imprisonment for one month

2. Brief facts of the case are that on 18.07.2006 ASI Surajpal Singh along with other police officials were on patrolling duty and when the police party reached near the pond of village Sangatpura, appellant Roop Singh was seen coming from the opposite side carrying a plastic bag on his head. On seeing the police party, he turned on his left side towards the village pond and threw the bag on the ground. On the basis of suspicion, he was apprehended and his name and address was verified and on the basis of suspicion, his personal search along with search of the plastic bag, thrown by him, was conducted, which was found to be containing 10 kilograms of poppy husk. One sample of 250 grams was

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separated from the bulk of poppy husk. 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 and no independent witness was joined either at the time of effecting recovery of the alleged contraband or during the course of investigation. Further there is non-compliance of Section 50 of NDPS Act and there is a delay in sending the representative sample to the office of chemical examiner as the alleged contraband was recovered on 18.07.2006 and the representative sample was sent to the office of chemical examiner on 24.07.2006 and the CFSL form was neither filled up at the spot nor the same was deposited with the MHC along with the case property. The appellant has undergone actual custody of 02 months and 30 days out of total sentence of 01 year awarded to him.

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, 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 10 kilograms of poppy husk, attracting the offence under Section 15(b) 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 02 months and 30 days out of total sentence of 01 year, in the instant case. Since there is no minimum punishment prescribed under Section 15(b) of NDPS Act, this Court is

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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.

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)



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was lodged on 18.07.2006 and the appellant has been suffering the agony of trial for last more than 18. 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 03.05.2008 passed by the learned Special Judge, Moga is upheld.

(ii) The order of sentence dated 05.05.2008 is modified to the extent that the sentence of rigorous imprisonment for 01 year along with fine of Rs. 2,000/- 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