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

**CRA-S-1483-SB-2004 (O&M)
Date of decision: 16.07.2025**

Sewa Singh

... Appellant

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. K.P.S. Virk, Advocate (legal aid counsel)
for the appellant.

Mr. Subhash Godara, Addl. A.G., Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. Present appeal has been preferred against the judgment of conviction and the order of sentence dated 10.07.2004 passed by learned Judge, Special Court, Patiala, in FIR No.198 dated 24.07.2002 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station Patran.

2. The appellant was convicted and sentenced by learned trial Court under Section 15 of NDPS Act for keeping in possession 20 kgs of churra poppy heads and was ordered to undergo rigorous imprisonment for a period of 18

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months and to pay a fine of Rs.2,000/- each along with default mechanism.

3. Learned legal aid counsel for the appellant, *inter alia*, contends that the appellant has been falsely implicated in the present case. The place, from where the recovery was effected, was not owned by the appellant and he was only present near a bag. Further, the police tried to join one Gurdev Singh, however, he was given up by the prosecution without giving any explanation. However, when said Gurdev Singh appeared as DW1, he deposed that no recovery was effected by the Investigating Officer in his presence. The Investigating Officer did not make earnest efforts to join an independent witness from the locality or from the nearby fields. Even in the FSL report, the quantity of morphine and other contents was not mentioned. He further submits that out of rigorous imprisonment of 01 year and 06 months awarded by learned trial Court, the appellant has undergone actual sentence of 13 days and is not involved in any other criminal activity.

4. *Per contra*, learned State counsel opposes the prayer made by the appellant on the ground that complicity of the appellant is duly proved from the testimonies of the prosecution witnesses and evidence brought on record and as such, learned trial Court had rightly convicted and sentenced him vide impugned judgment of conviction and the order of sentence dated 10.07.2004.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the appellant was

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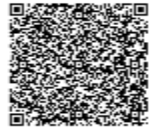


convicted under Section 15 of NDPS Act, for which no minimum punishment has been prescribed. As per custody certificate dated 15.07.2025, the appellant is not involved in any other case and he has undergone actual sentence of 13 days, out of rigorous imprisonment of 01 year and 06 months awarded by learned trial Court. 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 Vs. State of U.P., (2004) 7 SCC 257*, 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, the Hon'ble Supreme Court in *Ravada Sasikala Vs. State of AP, AIR 2017 SC 1166*, has reiterated that the imposition of sentence also

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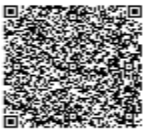
serves a social purpose as it acts as a deterrent by making the accused realise the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all 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 learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. The FIR (*supra*) in the present case was lodged on 24.07.2002 and the appellant has been suffering the agony of trial for almost 23 years. Since his conviction, the appellant has grown into a law-abiding citizen and desires to live a peaceful life.

9. Consequently, the present appeal is disposed of and the judgment of conviction dated 10.07.2004 passed by learned Judge, Special Court, Patiala is upheld, however, the order of sentence of even date is modified to the extent that the sentence of rigorous imprisonment for a period of 18 months and fine of Rs.2,000/- each along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.

10. All the pending miscellaneous application(s), if any, shall also stand disposed of.

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11. The High Court Legal Services Committee is directed to pay the remuneration to learned Legal Aid Counsel, as per relevant Rules/Orders.

16.07.2025
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No