



CRA-S-2146-SB-2007 (O&M)

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702 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-2146-SB-2007 (O&M)
Date of Decision: 26.05.2025

JASWANT SINGH AND ANOTHER

...APPELLANTS

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Shiv Raj Angi, Advocate for
for the appellants.

Mr. Rishabh Singla, AAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. The prayer in the present appeal is to set aside the judgment of conviction dated 18.10.2007 and order on quantum of sentence dated 19.10.2007 passed by learned Judge, Special Court, Bathinda whereby the appellants were convicted and sentenced for the offence punishable under Section 15(b) of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as 'NDPS Act') in the case stemming from FIR No. 93 dated 16.07.2005 registered at Police Station Sangat.

2. The appellants were sentenced for keeping in their possession 15 kilograms of poppy husk, as mentioned below:

Offence under Section	Sentence	Fine	Sentence in default of payment of fine
15(b) of NDPS Act	Rigorous imprisonment for 01 year each	Rs. 2,000/- each	Rigorous imprisonment for 02 months each

3. At the outset, learned counsel for the appellants submits that appellant No. 2-Binder Singh has died during the pendency of present appeal. As such proceedings qua him stands abated. Learned Counsel for the appellants further submits that he is not assailing the impugned judgment of conviction dated



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18.10.2007 passed by learned Judge, Special Court, Bathinda on merits and restricts his prayer to modification of the order on quantum of sentence dated 19.10.2007 to that of sentence already undergone by the appellant No. 1-Jaswant Singh, as he has already undergone a period of 02 months and 03 days out of total sentence of 01 year imposed upon 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 the appellant No. 1 is also involved in another case of NDPS Act as well, 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 appellants were convicted for being in possession of 15 kilograms of poppy husk, attracting the offence under Section 15 of NDPS Act, for which no minimum punishment has been prescribed. As per custody certificate of appellant No. 1-Jaswant Singh, he has already undergone a period of 02 months and 03 days out of total sentence of 01 year imposed upon him. Moreover, learned counsel for the appellant No. 1 has not assailed the judgment of conviction on merits. Rather, he has restricted his prayer only qua modification of order on quantum of sentence. 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 appellant No. 1.

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

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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 ther 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 their 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. Further, the primary consideration in matters where the petitioner/appellant is involved in other NDPS cases ought to be the severity of the offence. Moreover, Co-ordinate benches of this Court have deemed it appropriate to reduce the sentence imposed upon the accused to be the custody already undergone by them, in spite of their involvement in other cases pertaining to the NDPS Act in ***Pritam Singh @ Preeti vs. State of Punjab*** in **CRA-S-1769-SB-2010** decided on 03.04.2025, ***Ram Lal vs. State of Haryana*** in **CRA-S-986-SB-2005** decided on 11.05.2018, ***Raj Pal vs. State of Haryana*** in **CRA-S-68-SB-2005** decided on 28.04.2023, ***Raj Pal vs. State of Haryana*** in **CRA-S-34-SB-2005** decided on



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28.04.2023 and *Gurmail Singh and others vs. State of Punjab in CRA-S-1976-SB-2007 decided on 28.03.2025*

9. 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 16.07.2005 and the appellant has been suffering the agony of trial for last more than 19 years. Since his conviction, he has grown into a law-abiding citizen and desires to live a peaceful life.

10. Therefore, in view of the discussion above, the present appeal is disposed of qua appellant No. 1 in the following terms:-

(i) The judgment dated 18.10.2007 passed by the learned Judge, Special Court, Bathinda is upheld qua appellant No. 1.

(ii) The order of sentence dated 19.10.2007 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 No. 1-Jaswant Singh is reduced to the period of sentence already undergone by him.

11. Further, in view of the judgment rendered by this Court in *Shivji Ram @ Dimple vs. State of Punjab 2023(1) R.C.R.(criminal) 738* as well as the Full Bench of the Kerala High Court in *Pazhani S/o Chami vs. State of Kerala 2017(1) R.C.R. (Criminal) 1045*, the present appeal is disposed of with the following directions, qua appellant No. 2-Binder Singh:

(i) The appeal shall stand abated qua-appellant No. 2 on account of his death.

(ii) The State exchequer shall be at liberty to recover the fine amount by adopting due process of the law against him.

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- (iii) If State chooses to start recovery process of the amount of fine from the estate of the deceased-appellant No. 2, a valid notice in that regard would be served upon his legal heirs who has a vested right in the said estate.
- (iv) If any such legal heir or any interested person is aggrieved with the process of recovery of fine, he may move an appropriate application before this Court seeking revival of the appeal. However, the same must be done within 30 days of receipt of such notice.
- (v) Such legal heir or any interested person would also be at liberty to deposit the total amount of fine, which is subject matter of the appeal, qua appellant No. 2 only, in the office of concerned authority.
- (vi) If appeal is revived qua appellant No. 2, the appeal shall be heard on merits.
12. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

26.05.2025*Ajay Goswami**Whether speaking/reasoned*
*Whether reportable**Yes/No*
Yes/No