

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Reserved on : 03.04.2025
Pronounced on : 08.04.2025

CRA-S-209-SB-2008

AJAIB SINGH

...APPELLANT

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Balraj Singh, Advocate for the appellant.

Mr. Harkesh Kumar, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The prayer in the present appeal is to set aside the judgment of conviction and order of sentence dated 20.11.2007 passed by learned Presiding Officer, Special Court, Kurukshetra, whereby the appellant was convicted and sentenced for the offence punishable under Section 15 and 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter ‘NDPS Act’), in the case stemming from FIR No.343 dated 10.09.2004, under Sections 15, 18 and 29 of the NDPS Act at Police Station Shahabad.

2. The appellant was sentenced as mentioned below:

Offence	Sentence
Sections 15 and 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985	Imprisonment for the period already undergone by the appellant i.e. from 11.09.2004 to 28.10.2004, with a fine of Rs.12,000/-, in default of payment of fine, to undergo SI for 01 month.

3. Brief facts of the case are that on 10.09.2004, when SI Baljeet Singh along with other police officials was present in front of Punjabi Dhaba

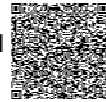


on G.T. Road at Bus Stand Dhantori, in connection with patrolling, the appellant, carrying a plastic bag in his right hand, was seen coming out of the said Dhaba. He was apprehended on suspicion. Upon search of plastic bag carried by him, 6 kgs of Poppy Husk and 140 grams of Opium were recovered. Subsequently, FIR (*supra*) was registered under Sections 15/18/29 of the NDPS Act.

4. Learned counsel for the appellant *inter alia* contends that an independent witness was joined during investigation but was not examined by the prosecution. He further contends that neither the provision of Section 42 of NDPS Act has been complied with nor a under Section 50 of the NDPS Act was served upon the appellant. Learned counsel submits that the entire case of the prosecution is based upon the testimonies of official witnesses, which also have material contradictions in them. Lastly, he submits that the appellant has undergone total custody period of 01 month and 18 days and he is not involved in any other case.

5. *Per contra*, learned State counsel opposes the prayer of the appellant as the learned Court below has passed a well-reasoned judgment based on correct appreciation of evidence available on record as such, he does not deserve any leniency.

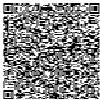
6. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the appellant was convicted for being in possession of 06 kgs of Poppy Husk and 140 grams of Opium, which fall under the purview of Sections 15 and 18 of NDPS Act. A perusal of the judgment passed by learned Special Court indicates no perversity and the same is based on correct appreciation of the facts as well as



the law. As per his custody certificate, he has already undergone an actual sentence of 01 month and 18 days, in the instant case. Since, the appellant was in possession of non-commercial quantity of contraband, this Court is of the opinion that the learned Court below has correctly sentenced the appellant to the period undergone by him.

7. 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.

8. 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 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.

9. Therefore, in view of the discussion above, the present appeal is dismissed.

Reserved on : April 03, 2025
Pronounced on : April 08, 2025
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(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |