

CRA-S-2208-SB-2007 (O&M)1

714IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-2208-SB-2007 (O&M)
Date of Decision: 07.04.2025

KULDIP SINGH ALIAS BABLU AND ANOTHER...APPELLANTS

Versus

STATE OF PUNJAB...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Dipanshu Kapur, Advocate for
Mr. S.S. Rana, Advocate 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 and order on quantum of sentence dated 16.10.2007 passed by learned Judge, Special Court, Hoshiarpur, whereby the appellants were convicted and sentenced for the offence punishable under Section 15 of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as ‘NDPS Act’) in the case stemming from FIR No. 197 dated 11.11.2002 registered at Police Station Mahilpur.
3. The appellants were convicted for keeping in their possession 13 kilogram of poppy husk each, and sentenced as mentioned below:

Offence under Section	Sentence	Fine	Sentence in default of payment of fine
15 of NDPS Act	Rigorous imprisonment for 03 years each	Rs. 10,000/- each	Rigorous imprisonment for 03 months each

4. Learned counsel for the appellant(s) submits that he is not assailing the impugned judgment of conviction dated 16.10.2007 passed by learned Judge, Special Court, Hoshiarpur on merits and restricts his prayer to modification of the order on quantum of sentence dated 16.10.2007 to that of



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sentence already undergone by the appellants as appellant-Kuldeep Singh @ Bablu has already undergone a period of 03 monhs and 08 days and appellant-Harjit Singh @ Jeeta has already undergone a period of 03 months and 22 days out of total sentence of 03 years each imposed upon them and they are not involved in any other case.

5. 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.

6. 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 13 kilograms of poppy husk each, attracting the offence under Section 15 of NDPS Act, for which no minimum punishment has been prescribed. As per their custody certificate, they are not involved in any other case and have already undergone an actual sentence of 03 months and 08 days and 03 months and 22 days, respectively, out of total sentence of 03 years each, in the instant case. Moreover, learned counsel for the appellants 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 appellants is reduced to the period already undergone by them.

7. 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 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, 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.

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 11.11.2002 and the appellants have been suffering the agony of trial for last more than 22 years. Since their conviction, the appellants have grown into a law-abiding citizens and desire to live a peaceful lives.

10. Therefore, in view of the discussion above, the present appeal(s) are disposed of in the following terms:-

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(i) The judgment dated 16.10.2007 passed by the learned Judge, Special Court, Hoshiarpur is upheld.

(ii) The order of sentence dated 16.10.2007 is modified to the extent that the sentence of rigorous imprisonment for 03 years each and fine of Rs. 10,000/- each with default mechanism awarded to the appellants is reduced to the period of sentence already undergone by them.

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

(HARPREET SINGH BRAR)
JUDGE

07.04.2025*Ajay Goswami**Whether speaking/reasoned**Whether reportable**Yes/No**Yes/No*