

Date of decision: 21.05.2025

CHHINDER SINGH

...APPELLANT

V/S

...RESPONDENT

RAJU

...APPELLANT

V/S

...RESPONDENT

Present: Mr. Sanjeev Manrai, Senior Advocate with
Mr. Rohit Bhardwaj, Advocate for the appellant(s).

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This order of mine shall dispose of both the above-mentioned appeals as both are arising from the same FIR. For the sake of brevity, facts are borrowed from ***CRA-S-2311-SB-2007*** titled as ***Chhinder Singh vs. State of Punjab.***

2. The prayer in the present appeal is to set aside the judgment of conviction and order of sentence dated 11.10.2007 passed by learned Judge, Special Court, Bathinda, whereby the appellants were convicted and sentenced for the offence punishable under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'NDPS Act'), in



the case stemming from FIR No.86 dated 22.06.2003 registered under Section 15 of NDPS Act at Police Station Talwandi Sabo.

3. The appellants were sentenced for keeping in their possession 35 kgs and 30 kgs of poppy husk, as mentioned below:

Name of the appellant(s)	Offence	Sentence
Chhinder Singh	Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985	Rigorous imprisonment for a period of four years and to pay fine of Rs.3,000/- and in default of payment of fine, to further undergo RI for 02 months.
Raju	Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985	Rigorous imprisonment for a period of three years and to pay fine of Rs.3,000/- and in default of payment of fine, to further undergo RI for 02 months.

3. Learned Counsel for the appellants submits that he is not assailing the impugned judgment of conviction dated 11.10.2007 passed by learned Judge, Special Court, Bathinda on merits and restricts his prayer to modification of the order on quantum of sentence dated 11.10.2007 to that of sentence already undergone by the appellants. As per the custody certificates, the appellant-Chhinder Singh has undergone a period of 01 year, 02 months and 06 days and appellant-Raju has undergone a period of 01 year, 10 months and 06 days.

4. *Per contra*, learned State counsel opposes the prayer of the appellants as the learned Court below has passed a well-reasoned judgment based on correct appreciation of evidence available on record as such, they do



not deserve any leniency. Moreover, the appellants are involved in other cases also.

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 35 kgs and 30 kgs of Poppy Husk, which fall under the purview of Section 15 of NDPS Act. As per the custody certificates, the appellant-Chhinder Singh has undergone a period of 01 year, 02 months and 06 days and appellant-Raju has undergone a period of 01 year, 10 months and 06 days. Since there is no minimum punishment prescribed under Section 15 of NDPS Act, for the non-commercial quantity 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.

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



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 same is based on correct appreciation of evidence available on record. However, the FIR (*supra*) was lodged on 22.06.2003 and the appellants have been suffering the agony of trial for last more than 21 years. Since their conviction, they have grown into law-abiding citizens and desire to live a peaceful life.

9. Further, the primary consideration in matters where the petitioner/appellant(s) is/are 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 28.04.2023 and ***Gurmail Singh***



**CRA-S-2311-SB-2007
& 01 connected case**

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

10. Therefore, in view of the discussion above, both the appeals are disposed of in the following terms:-

(i) The judgment dated 11.10.2007 passed by the learned Judge, Special Court, Bathinda is upheld.

(ii) The order of sentence dated 11.10.2007 is modified to the extent that the sentence of rigorous imprisonment for four years and three years and fine along with default mechanism awarded to the appellants respectively is reduced to the period of sentence already undergone by them.

11. A photocopy of this order be placed on the file of other connected case.

May 21, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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