

**202 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****CRA-S-1358-SB-2009****Date of Decision: April 22, 2025****Gurmail Singh****... Appellant****Versus**

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**Present:-** Mr. N.S. Dandiwal, Advocate for the appellant.

Mr. Rajeev K. Takkar, DAG, Punjab.

DEEPAK GUPTA, J.(Oral)

Appellant – Gurmail Singh was tried by learned Judge, Special Court, Moga in a case arising out of FIR No.26 dated 13.05.2004 under Sections 15 and 25 of the NDPS Act registered at Police Station Badhni Kalan, as he was found in possession of 40 Kg of poppy straw. After trial, the appellant was convicted under Section 15(b) of the NDPS Act vide judgment dated 05.05.2009 by the trial Court and was sentenced to undergo rigorous imprisonment for a period of 02 years and to pay fine of ₹5,000/- with default sentence of 02 months rigorous imprisonment in case of non-payment of fine.

2. Against the abovesaid conviction and sentence, this appeal was filed.

3. Today learned counsel for the appellant stated at the outset that appellant does not press the appeal against the judgment of conviction; and that appellant confines his prayer only against order of sentence. It is submitted that appellant would be satisfied, in case he is sentenced to imprisonment for the period already undergone by him.

4. Learned counsel points out that offence pertains to the year 2004; that appellant was young person of 25 years at that time; that appellant has already undergone actual sentence of 07 months and 25 days and is not involved in any other case and so, he deserves to be sentenced for the period already undergone by him.

5. Learned State counsel has not seriously objected to the aforesaid prayer.

6. The custody certificate placed on record by the respondent-State would reveal that appellant has already undergone actual custody sentence of 07 months and 25 days. It is revealed further that he has no criminal antecedents. Nothing has been brought on record to suggest that after this conviction, appellant has been involved in any other case. He was young boy of 25 years of age at the time of offence, which had taken place way back in 2004 i.e. 21 years back.
7. In the aforesaid facts and circumstances, it will be in the interest of justice, if the period of imprisonment is reduced to the period already undergone by the appellant, instead of sending him behind bars in the company of hardened criminals.
8. Consequently, the present appeal is partly accepted. By maintaining the impugned judgment against conviction, the order of sentence as passed by the trial Court is modified and the appellant is sentenced to imprisonment for the period already undergone by him.
9. However, it is made clear that amount of fine, if not paid earlier, shall be deposited before learned Chief Judicial Magistrate concerned, within a period of four weeks from today, failing which the appellant will have to carry out the complete sentence as imposed by the trial Court.

Disposed of.

April 22, 2025
sarita

(DEEPAK GUPTA)
JUDGE

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