



CRA-S-1601-SB-2009 (O&M)

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1286 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-1601-SB-2009 (O&M)
Date of Decision: 14.05.2025

PARKASH SINGH @ NIKKU

...APPELLANT

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. A.K. Khunger, Advocate
for the appellant.

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 20.05.2009 passed by learned Special Judge, Ferozepur whereby the appellant was 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. 361 dated 15.11.2002 registered at Police Station Sadar Fazilka.

2. The appellant was sentenced for keeping in his possession 20.250 kilogram of poppy husk, as mentioned below:

Offence under Section	Sentence	Fine	Sentence in default of payment of fine
15 of NDPS Act	Rigorous imprisonment for 02 years	Rs. 2,000/-	Rigorous imprisonment for 01 month

3. Learned Counsel for the appellant submits that he is not assailing the impugned judgment of conviction dated 20.05.2009 passed by learned Special Judge, Ferozepur on merits and restricts his prayer to modification of the order on quantum of sentence dated 20.05.2009 to that of sentence already

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undergone by the appellant as he has already undergone a period of 05 months and 14 days out of total sentence of 02 years 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. Moreover, the appellant is also involved in other cases. Thus he is not entitled to any relief by this Court.

5. 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 his possession 20.250 kilogram of poppy husk, attracting the offence under Section 15 of NDPS Act, for which no minimum punishment has been prescribed. As per his custody certificate, he has already undergone an actual sentence of 05 months and 14 days out of total sentence of 02 years in the instant case. Moreover, learned counsel for the appellant 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 him.

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 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

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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, 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.

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

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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 15.11.2002 and the appellant has been suffering the agony of trial for last more than 22 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 in the following terms:-

(i) The judgment dated 20.05.2009 passed by the learned Special Judge, Ferozepur is upheld.

(ii) The order of sentence dated 20.05.2009 is modified to the extent that the sentence of rigorous imprisonment for 02 years along with fine of Rs. 2,000/- with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.

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

(HARPREET SINGH BRAR)
JUDGE

14.05.2025*Ajay Goswami**Whether speaking/reasoned*
*Whether reportable**Yes/No*
Yes/No