



**474 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

Date of decision: 17.03.2025

1. **CRA-S-616-SB-2007**

**Jasvir Singh**

....Appellant

Versus

**State of Punjab**

...Respondent

2. **CRA-S-1128-SB-2007**

**Jugraj Singh**

....Appellant

Versus

**State of Punjab**

...Respondent

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

**Present:** Mr. P.S. Sidhu, Advocate in CRA-S-616-SB-2007.

Mr. Avikaran Bansal, Advocate

Mr. Deepak Gupta, Advocate

Mr. Anjan Lohan, Advocate for the appellant(s)  
in CRA-S-1128-SB-2007..

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-616-SB-2007** titled as **Jasvir Singh Vs. State of Punjab**.

2. These appeals have been preferred against the judgment of conviction and order of sentence dated 28.02.2007 passed by learned Judge, Special Court Bathinda whereby the appellants were convicted and sentenced



for the offence punishable under Section 15 (b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter ‘NDPS Act’), in the case stemming from FIR No.132 dated 07.12.2004 at Police Station Raman District Bathinda.

3. The appellants were sentenced as mentioned below:

| Offence                                                                    | Sentence                                                                                                                                                                                      |
|----------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 15 (b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 | Rigorous imprisonment for a period of <b>2 years each</b> and to pay fine of Rs.1,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for seven days each. |

4. Brief facts of the case are that on 07.12.2004, ASI Amarjit Singh alongwith other police officials and independent witness Major Singh was going from village Sekhu to village Chathe Wala through a Katcha passage. When he reached near the bridge of a canal minor, he stopped Jeep No.PUQ-5114 stationed on right side of the bridge. Two youngmen were sitting in the jeep. On the basis of suspicion he checked the jeep and found that a bag with its open mouth was kept in the jeep. They were apprehended. They disclosed their names as Jugraj Singh and Jasvir Singh. First of all, one spring balance was arranged and weights were also arranged. Two samples each containing 100 grams poppy husk were separated and converted into parcels. The residue poppy husk on weight came to 24 kgs 800 grams and was also converted into a parcels. Hence the FIR (*supra*) was registered.

5. Learned counsel for the appellants submit that the learned Court below has fallen into grave error in convicting the appellants, as their guilt has not been proved beyond reasonable doubt. It is contended that the mandatory provisions of the NDPS Act have not been followed and the link evidence is missing. Further non-examination of independent witness is fatal to the case of



prosecution. They further contend that they are not assailing the impugned judgment of conviction dated 28.02.2007 on merits and restricts his prayer to modification of the order on quantum on sentence, to that of the sentence already undergone by the appellant(s), as they have already undergone a period of 2 months and 26 days (Jasvir Singh) and 1 year 3 months and 24 days (Jugraj Singh) in custody and are not involved in any other criminal case.

6. *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.

7. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the appellants were convicted for having in possession 25 kgs of poppy husk attracting the offences 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 actual sentence of a period of 2 months and 26 days (Jasvir Singh) and 1 year 3 months and 24 days (Jugraj Singh) out of total sentence of 2 years each. 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 are reduced to the period already undergone by them.

8. 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.

9. 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.

10. 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 07.12.2004 and the appellants have been suffering the agony of trial for last more than more than 20 years. Since their conviction, they have grown into a law-abiding citizen and desire to live a peaceful life.

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



(i) The judgment dated 28.02.2007 passed by learned Judge, Special Court, Bathinda is upheld.

(ii) The order of sentence dated 28.02.2007 is modified to the extent that the sentence of rigorous imprisonment for 2 years each with fine of Rs. 1,000/- each along with default mechanism awarded to the appellants is reduced to the period of sentence already undergone by them.

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

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

**(HARPREET SINGH BRAR)**  
**JUDGE**

**17.03.2025**  
*mahima*

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