



Psychotropic Substances Act, 1985 (hereinafter referred to as ‘NDPS Act’), in the case stemming from FIR No.358 dated 12.11.2005 registered under Section 15 of NDPS Act at Police Station Sadar, Fazilka.

3. The appellants were sentenced for keeping in their possession 35 kgs of Poppy Husk each, as mentioned below:

Offence	Sentence
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.5,000/- each and in default of payment of fine, to further undergo RI for 06 months.

4. Learned Counsel(s) for the appellants submits that they are not assailing the impugned judgment of conviction dated 12.04.2010 passed by learned Special Judge, Ferozepur on merits and restricts their prayer to modification of the order on quantum of sentence dated 12.04.2010 to that of sentence already undergone by the appellants. As per the custody certificates, the appellant-Joginder Singh has undergone total period of 01 year, 04 months, 12 days and appellant-Kashmir Singh has undergone total period of 06 months, 21 days.

5. *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, appellant-Joginder Singh is involved in other cases and appellant-Kashmir Singh is also involved in one more case.

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 35 kgs of Poppy Husk each, which falls under the purview of Section 15 of NDPS Act. As per the custody certificates, the appellant-Joginder Singh has undergone total period of 01 year, 04 months, 12 days and appellant-Kashmir Singh has undergone total period of 06 months, 21 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.

7. 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.

8. 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.

9. 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 12.11.2005 and the appellants have been suffering the agony of trial for last more than 19 years. Since their conviction, they have grown into law-abiding citizens and desire to live a peaceful life.

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

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



(i) The judgment dated 12.04.2010 passed by the learned Special Judge, Ferozepur is upheld.

(ii) The order of sentence dated 12.04.2010 is modified to the extent that the sentence of rigorous imprisonment for three years each and fine along with default mechanism awarded to the appellants is reduced to the period of sentence already undergone by them.

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

May 15, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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