



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

Date of decision: 17.03.2025

1. **CRA-S-90-SB-2007**

Daler Singh

....Appellant

Versus

State of Punjab

...Respondent

2. **CRA-S-1277-SB-2007**

Natha Singh

....Appellant

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Shivender Pal Singh, Advocate for
Mr. B.S. Bhalla, Advocate
for the appellant in CRA-S-90-SB-2007.

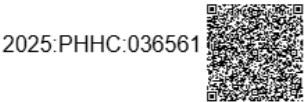
Mr. N.S. Sodhi, Advocate and
Ms. Prabhleen Kaur, Advocate
for the appellant in CRA-S-1277-SB-2007.

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-90-SB-2007** titled as Daler Singh Vs. State of Punjab.

2. The instant appeal has been preferred against the judgment of conviction dated 08.01.2007 and order of sentence dated 09.01.2007 passed by learned Special Judge, Moga whereby the appellants were convicted and sentenced for the offence punishable under Section 15 of the Narcotic Drugs



and Psychotropic Substances Act, 1985 (hereinafter ‘NDPS Act’), in the case stemming from FIR No.24 dated 16.02.2003 at Police Station Bagha Purana District Moga.

3. The appellants were sentenced as mentioned below:

Offence	Sentence
Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985	Rigorous imprisonment for a period of three years each and to pay fine of Rs.10,000/- each with default mechanism.

4. Brief facts of the case are that on 16.02.2003 ASI Balwinder Singh of CIA Staff Moga along with ASI Shamsher Singh and other officials were present on the bridge of canal minor in the area of village Chand Purana, GT Road leading from Moga to Bagha Purana on the directions of S.P.D. to check the vehicles. At about 6.15 PM car mark contessa bearing registration No. CH-01H-0879 came from the side of Bagha Purana. It was driven by accused Daler Singh and accused Natha Singh was sitting by his side. In the meanwhile, Gant Singh private witness also arrived there. He was joined in the police party. One bag was lying on the floor of the car ahead of the front seat. Both the accused were told by ASI Balwinder Singh that he suspected some intoxicant material in the said bag and therefore it was to be searched. ASI Balwinder Singh conducted the search of the bag from which 20 kgs. poppy husk was recovered. Hence the FIR (*supra*) was registered.

5. Learned counsel for the appellants submits 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, there was no investigation with regard to the source of alleged recovery. Further non-examination of independent witness is fatal to the case



of prosecution. He further contends that he is not assailing the impugned judgment of conviction dated 08.01.2007 on merits and restricts his prayer to modification of the order on quantum of sentence, to that of the sentence already undergone by the appellant(s), as they have already undergone total period of 1 month and 19 days (Daler Singh) and a period of 1 year 2 months and 20 days (Natha 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 20 kgs of poppy husk attracting the offence 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 coase and have already undergone a total sentence of 1 month and 19 days (Daler Singh) and a period of 1 year 2 months and 20 days (Natha Singh) in custody. 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 is 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 16.02.2003 and the appellants have been suffering the agony of trial for last more than 22 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 08.01.2007 passed by learned Special Judge, Moga is upheld.

(ii) The order of sentence dated 09.01.2007 is modified to the extent that the sentence of rigorous imprisonment for 3 years each with fine of Rs. 10,000/- 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 another connected case.

(HARPREET SINGH BRAR)
JUDGE

17.03.2025
mahima

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