





of the order on quantum of sentence dated 02.04.2008 to that of sentence already undergone by the appellants, as they have already undergone a period of 06 months and 06 days; and 06 months and 05 days respectively out of total sentence of 04 years each imposed upon them.

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 and as such, they does not deserve any leniency.

5. 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 34.250 kilograms of poppy husk, attracting the offence under Section 15(b) of NDPS Act, for which no minimum punishment has been prescribed. As per their custody certificates, they are not involved in any other case and have already undergone a period of more than 06 months out of total sentence of 04 years each imposed upon them. Moreover, learned counsel for the appellants 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(b) 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.

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

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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 ther 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 their 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. 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 14.03.2003 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 citizens and desire to live peaceful lives.

9. Therefore, in view of the discussion above, the present appeal is disposed of in the following terms:-

- (i) The judgment dated 01.04.2008 passed by the learned Judge, Special Court, Bathinda is upheld.



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(ii) The order of sentence dated 02.4.2008 is modified to the extent that the sentence of rigorous imprisonment for 04 years each along with fine of Rs. 10,000/- each with default mechanism awarded to the appellants is reduced to the period of sentence already undergone by them.

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

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

**26.05.2025**

*Ajay Goswami*

*Whether speaking/reasoned*  
*Whether reportable*

*Yes/No*  
*Yes/No*