

**CRA-S-1079-SB-2012****1****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****279****CRA-S-1079-SB-2012****Date of Decision: 20.05.2025****Jarnail Kaur****...Appellant*****Versus*****State of Punjab****... Respondent****CORAM: HON'BLE MR. JUSTICE H.S. GREWAL.**

Present: Mr. Rajesh Bhateja, Advocate, for the appellant.

Mr. H. S. Wadhwa. DAG Punjab.

H.S. GREWAL, J. (ORAL)

1. The present appeal has been filed against the impugned judgment of conviction and order of sentence dated 03.03.2012 passed by the learned Judge, Special Court, Patiala whereby, appellant has been convicted under Section 15 of NDPS Act and sentenced to undergo rigorous imprisonment for a period of 3 months and also to pay a fine of Rs.500/- and in default thereof, RI for a period of 15 days.

2. The case of the prosecution is that on 20.06.2009, ASI Kehar Singh along with other police officials while patrolling for checking of bad elements was proceeding from Ghagga via link road towards village Atalan where one woman was seen coming. On seeing the police party, she got perplexed and tried to turn back. On suspicion, ASI Kehar Singh and his companions apprehended her and she disclosed her name as Jarnail Kaur. One plastic bag was carried by her and it was suspected that there is some intoxicant material in the bag and her search was conducted and 5 Kg of poppy husk was recovered. Pursuant thereto, FIR No.58 dated 20.06.2009 under Section 15 of NDPS Act was registered, thereafter, vide order dated



03.03.2012 passed by the learned Judge, Special Court, Patiala, the appellant was convicted and sentenced to undergo aforesaid imprisonment.

3. Learned counsel for the appellant contends that he is not assailing the impugned judgment of conviction and order of sentence on merits and restricts his prayer qua modification of the order on quantum of sentence, to the period as already undergone by the appellant, as she has already undergone a period of 1 month and 13 days out of total sentence of 3 months. He further prays that since the FIR in question pertains to the year 2009, a lenient view may be taken while passing an order/ judgment by this Court.

4. On the other hand, learned State counsel opposes the prayer of the appellant by way of custody certificate dated 19.05.2025 so attached with the case file and submits that the learned Court below has passed a well-reasoned judgment based on correct appreciation of evidence available on record.

5. I have heard learned counsel for the parties and have gone through the material placed on record.

6. The appellant has been convicted for carrying 5 Kg of poppy husk, for which no minimum punishment has been prescribed. Moreover, the FIR in the present case pertains to the year 2009 and the appellant has already faced the rigors of the trial for more than 16 years.

7. Hon'ble the Supreme Court in "***Deo Narain Mandal Vs. State of UP***", (2004) 7 SCC 257, has held 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

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discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, the 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, a two-Judges Bench of the Hon'ble Supreme Court in *Ravada Sasikala Vs. State of AP, AIR 2017 SC 1166*, has held that the imposition of sentence also serves a social purpose, as it acts as a deterrent by making the accused realize 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 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 court below indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. However, learned counsel for the appellant has not assailed the judgment of conviction on merits, rather restricted the prayer only qua modification of quantum of sentence to that of the sentence already undergone by the appellant.

10. Since there is no minimum punishment prescribed under Section 15 of the NDPS Act and keeping in view the fact the FIR is of the year 2009 and the appellant has faced the rigors of trial for a period of more

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than 16 years therefore, while taking a lenient view, 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 her.

11. In view of above, the present appeal is **disposed of** by upholding the judgment of conviction dated 03.03.2012 passed by the Special Court, Patiala, however the order of sentence dated 03.03.2012 is modified to the extent that the sentence of rigorous imprisonment for a period of 3 months imposed upon the appellant is reduced to the period of sentence already undergone by her. However, the amount of fine imposed upon the appellant shall remain the same.

(H.S. GREWAL)
JUDGE

20.05.2025***anil***

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No