



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
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CRA-S-2072-SB-2006 (O&M)
Date of decision: 19.05.2025

Tara Singh
State of Punjab
Versus
....Appellant
....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Shivam Kapila, Advocate (*Amicus Curiae*)
for the appellant.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. The prayer in the present appeal is to set-aside the judgment of conviction dated 05.10.2006 and order of sentence dated 09.10.2006 passed by learned Special Judge, Moga whereby the appellant was convicted and sentenced for the offence punishable under Section 15(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter 'the NDPS Act'), in the case stemming from FIR No.43 dated 16.04.2003 registered under Section 15 of the NDPS Act at Police Station Kot Ise Khan, District Moga.
2. The appellant was found in possession 28.50 Kgs of Poppy Straw, for which he was convicted and sentenced as follows:

Offence	Sentence
Section 15(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985	Rigorous imprisonment for a period of 04 years and to pay fine of Rs.5,000/- and in default of payment of fine, to further undergo rigorous imprisonment for 03 months.



3. Learned *amicus curiae*, *inter alia*, contends that the mandatory as well as directory provisions contained in the NDPS Act, have not been followed, which would vitiate the entire case of the prosecution. Further one independent witness namely Baru Ram was joined in the investigation, however, he was not produced before the learned Court below at the time of trial rendering the entire case of the prosecution doubtful. Moreover, there is an unexplained delay in sending the representative sample to the office of Forensic Science Laboratory and there are major contradictions and infirmities in the case set up by the prosecution. Lastly, the appellant has already undergone a period of 04 months and 12 days in custody.

4. *Per contra*, learned State counsel opposes the prayer of the appellant on the ground that the learned Court below has passed a well-reasoned judgment based on correct appreciation of evidence available on record and the appellant is involved in one more case, as such, he 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 appellant was convicted for being in possession of 28.50 Kgs of Poppy Straw, i.e. intermediate quantity, attracting the offence of Section 15(b) of the NDPS Act, for which no minimum punishment has been prescribed. As per custody certificate, the appellant has already undergone an actual sentence of 04 months and 12 days out of total sentence of 04 years, in the instant case. Since there is no minimum



punishment prescribed under Section 15(b) of the NDPS Act, 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 him.

6. In ***Deo Narain Mandal Vs. 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 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.

7. Further, a two-Judge Bench of 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 conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

7.1. Further, the primary consideration in matters where the appellant is involved in other NDPS cases ought to be the severity of the offence. Moreover, the 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.

8. 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. The FIR (supra) in the present case was registered on 16.04.2003 and the appellant has been suffering the agony of trial since the last more than 22 years. Since the conviction, the appellant has grown into a law-abiding citizen and desires to live a peaceful life.

9. Consequently, the present appeal is disposed of in the following terms:-



- (i) The judgment of conviction dated 05.10.2006 passed by the learned Special Judge, Moga is upheld.*
- (ii) The order of sentence is modified to the extent that the sentence of rigorous imprisonment for a period of 04 years and fine along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.*

- 10. The High Court Legal Services Authority is directed to pay remuneration to learned *Amicus Curiae* as per rules.
- 11. All the pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

19.05.2025

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