



**CRA-S-372-SB-2011 (O&M) -1-
& other connected case**

**202-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

DATE OF DECISION: 19.08.2025

1. CRA-S-372-SB-2011 (O&M)

RAJPAL @ RAJU

.....Appellant

Versus

STATE OF PUNJAB

.....Respondent

2. CRA-S-439-SB-2011 (O&M)

HARBHAJAN DASS @ SONI

.....Appellant

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE H.S. GREWAL

Present: Mr. Aman Kumar, Advocate for
Mr. Prateek Pandit, Advocate
for the appellant(s).

Mr. Amit Rana, Sr. DAG, Punjab.

Mr. Chirag Suri, Amicus Curiae
for the applicant(s).

H.S. GREWAL J. (Oral)

By way of common order, the aforesaid appeals shall be disposed of which have been filed against impugned judgment dated 17.12.2010 passed by learned Judge, Special Court, Jalandhar in FIR No.161 dated 02.08.2006 under Section 15 of NDPS Act, 1985 registered at Police Station Shahkot whereby the appellant(s) have been convicted and sentenced to undergo rigorous



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imprisonment for a term of three years alongwith fine of Rs.500/- and further in default of payment of fine, to undergo rigorous imprisonment for a period of six months.

2. The appellants have come up before this Court by way of filing of the present appeal.

3. The case of the prosecution is that on 02.08.2006, a police party headed by ASI Dev Raj Incharge P.S. Malsian was present in the area of village Mallupur Distt. Jalandhar and the said official sighted a scooter on which two persons were riding. The said police official directed the riders of the aforesaid scooter to stop. Then, the driver of the scooter disclosed his name as Rajpal Singh whereas pillion rider introduced himself as Harbhajan Dass @ Soni. It is further alleged that the above said persons were carrying a heavy Jute Bag between them upon scooter and on being suspected of the said bag containing some Narcotics, the said ASI disclosed his intention to search the same to the accused and also apprised them about their right of being searched in presence of a Gazetted officer or a Magistrate. However, as per the prosecution version the accused consented to being searched by him only. Further upon the search the said bag was found to contain poppy husk. Out of the bag containing poppy husk, two samples of 250 gms each were separated and when weighed the remaining poppy husk came out to be 34Kg 500gms. The said sample and the bulk were sealed and taken into possession as per law. Further, upon completion of investigation, challan was presented and the accused were tried for having committed offence Under section 15 of the NDPS Act.

4. Thereafter, upon conclusion of the trial, the appellants/accused were held guilty and sentenced accordingly, vide impugned judgment dated



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17.10.2010 passed by learned Judge, Special Court, Jalandhar as enumerated above.

5. Learned counsel for the appellants also submits that the appellants have been suffering the agony of trial since 02.08.2006 as the appeal is also an extension of trial. He is not involved in any other criminal case since his release on interim bail by this Court vide order dated 30.05.2011 and during the pendency of present appeal and it would be just and expedient to reduce the sentence awarded to the appellant(s) by the learned Judge, Special Court, Jalandhar to the period as already undergone, as the appellant(s) is a law-abiding citizen and has reformed himself after his conviction. Learned counsel for the appellant(s) states that without referring to the merits of the case, he prays for reduction of sentence while taking a lenient view on the ground that the appellant(s) is not involved in any other case and has not indulged in any such activity, even after his conviction.

6. At this stage, counsel for the appellant(s) submits that he is not assailing the judgment of conviction on merits, rather restricts his prayer qua modification of the order of sentence to the period already undergone.

7. On the other hand, learned State counsel opposes the prayer of the appellant(s) by way of filing of custody certificate dated 22.07.2025 on the ground that the trial Court concerned has passed a well-reasoned judgment after taking into consideration the entire evidence and the material available on record and there is no perversity or illegality in the findings returned by it. He further submits that the appellant(s) is not involved in any other case.

10. 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



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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.

11. Further, a two-Judge 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 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.

12. A perusal of the judgment of conviction passed by learned Judge, Special Court, Jalandhar indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Learned counsel for the appellant(s) has not assailed the judgment of conviction on merits, rather restricted the prayer only *qua* modification of quantum of sentence to that of the period already undergone by the appellant(s).

14. Keeping in view the above facts and circumstances of the present case, there is no other criminal antecedents against the petitioner, the judgment of conviction dated 17.12.2010 passed by learned Judge, Special Court, Jalandhar is upheld. However, the order of sentence dated 17.12.2010 is modified to the extent that the sentence of rigorous imprisonment for a period of 03 years alongwith fine of Rs.500/- is reduced to the period of sentence already undergone by him, however, the fine imposed vide judgment dated 17.12.2010 is enhanced to that of Rs.2,000/-.

19th August, 2025

(H.S. GREWAL)
JUDGE

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