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

**CRA-S-990-SB-2004 (O&M)
Date of decision: 07.03.2025**

Sohan Lal

... Appellant

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rohit Sharma, Advocate for
Mr. J.B.S. Gill, Advocate
for the appellant.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. Instant appeal has been preferred against the judgment of conviction dated 01.05.2004 and the order on quantum of sentence dated 04.05.2004 passed by learned Judge, Special Court, Karnal, in FIR No.147 dated 10.08.2002 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station Madhuban, District Karnal, vide which the appellant was convicted and sentenced under Section 15(b) of NDPS Act and was ordered to undergo rigorous imprisonment for a period of 01 year and 03 months and to pay a fine



of Rs.5,000/- along with default mechanism.

2. Brief facts of the case, as alleged, are that on 10.08.2022, while ASI Ranjit Kumar along with other police officials was present at Mangalora Ghat in connection with patrolling and detection of crime, he saw the appellant coming from the side of Village Lalupur having one white bag on his head and on the basis of suspicion of having some narcotic substance, he was stopped and was served with notice under Section 50 of NDPS Act apprising his right to be searched before a Gazetted Officer or a Magistrate, however, the appellant reposed confidence in ASI Ranjit Kumar. Thereafter, ASI Ranjit Kumar conducted the search of bag, which was containing poppy husk weighing 20 kgs, out of which two samples of 250 grams each were separated and remainder was put in the bag and after completing the necessary formalities, a ruqa was sent to the police station for registration of FIR. The Investigating Officer recorded statements of the independent witnesses at the spot and formally arrested the appellant.

3. The appellant was convicted vide judgement of conviction dated 01.05.2004 by learned Judge, Special Court, Karnal under Section 15(b) of NDPS Act and vide order on quantum of sentence dated 04.05.2004, he was sentenced to undergo rigorous imprisonment for a period of 01 year and 03 months and to pay a fine of Rs.5,000/- along with default mechanism.

4. Learned counsel for the appellant contends that he is not assailing

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the impugned judgment of conviction dated 01.05.2004 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, as he has already undergone a period of 04 months and 14 days in the instant case.

5. *Per contra*, learned State counsel opposes the prayer of the appellant, as learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record and as such, he does not deserve any leniency. Learned State counsel has produced the custody certificated dated 06.03.2025 of the appellant in the Court today, which is taken on record, according to which, the appellant is involved in one more FIR under NDPS Act, however, he is on bail in that case.

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the appellant was convicted for being in possession of 20 kgs of poppy husk i.e. intermediate quantity, attracting the offence of Section 15 of NDPS Act, for which no minimum punishment has been prescribed. As per his custody certificate, the appellant has already undergone an actual sentence of 04 months and 14 days in the instant case and is involved in one more case under NDPS Act, however, in that FIR, he is on bail. 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 appellant is reduced to the



period already undergone by him.

7. 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.

8. 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 the 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 indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Moreover, learned counsel for the appellant has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua modification of order on quantum of sentence.

10. Accordingly, 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.

11. Consequently, the present appeal is disposed of and the judgment of conviction dated 01.05.2004 passed by learned Judge, Special Court, Karnal is upheld, however, the order on quantum of sentence dated 04.05.2004 and imposition of fine amount of Rs.5,000/- upon the appellant, is modified to the extent that the sentence of rigorous imprisonment for a period of 01 year and 03 months along with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.

[HARPREET SINGH BRAR]
JUDGE

07.03.2025
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No