

CRA-S-315-SB-2007 (O&M)

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430 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-315-SB-2007 (O&M)
Date of Decision: 10.03.2025

JANTA SINGH

...APPELLANT

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Parminder Singh, Advocate
for the appellant.

Mr. Rishabh Singla, AAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. Present appeal has been preferred by the appellant against the judgment of conviction and order on quantum of sentence dated 01.02.2007 passed by learned Judge, Special Court, Bathinda vide which the appellant has been convicted and sentenced as mentioned below:

Offence under Section	Sentence	Fine	Sentence in default of payment of fine
15(b) of NDPS Act	Rigorous imprisonment for one year and six months	Rs. 3,000/-	Rigorous imprisonment for 30 days

2. Brief facts of the case are that on 29.02.2004, a police party headed by ASI Jugraj Singh along with other police officials were going in government jeep for holding picket on bridge of seepage drain in the area of village Jodhpura Raomana. When the said police party was going from Jodpur Roamana to village Jassi Pau Wali in the area of village Jodhpur Roamana, then an independent witness Harbans Singh associated in the police party. In the meantime, accused-petitioner by keeping plastic bag over his head was found coming on embankment of the seepage drain. On seeing the police party, the

Petitioner tried to slip away, but nabbed on the ground of suspicion. After

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ascertaining his name and address, he was brought near to the bag, the mouth of which stood opened due to throwing of the same on the ground by the accused-petitioner in the process of fleeing. Poppy husk was recovered from the bag. Two samples, each weighing 100 grams, were separated from the poppy husk and were converted into separate parcels and sealed. The remaining poppy husk was found to be 11 kg 800 grams on weighment. Subsequently, FIR(*supra*) was registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as 'NDPS Act').

3. Learned counsel for the appellant submits that the learned Court below has fallen into grave error by convicting the appellant, as his guilt has not been proved beyond reasonable doubt. He contends that the learned Court has not taken into consideration that Form-29 has not been filled on the spot. Further, there was also an unexplained delay in sending the sample of the alleged contraband to the Forensic Science Laboratory. Further, there are major discrepancies in the statements of the witnesses who have been examined by the prosecution. He further contends that the mandatory provisions of the NDPS Act have not been followed in the present case. Lastly, he submits that the appellant has already undergone a period of 02 months and 29 days of custody and is not involved in any other criminal case.

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, the appellant 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

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Section 15(b) of NDPS Act, for which no minimum punishment has been prescribed. As per his custody certificate, he is not involved in any other case and has already undergone an actual sentence of 02 months and 29 days out of total sentence of one year, in the instant case. 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.

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 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 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 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 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

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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.

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

(i) The judgment dated 01.02.2007 passed by the learned Judge, Special Court, Bathinda is upheld.

(ii) The order of sentence dated 01.02.2007 is modified to the extent that the sentence of rigorous imprisonment for one year and six months along with fine of Rs. 3,000/- with default mechanism awarded to the appellant is reduced to the period of sentence already undergone by him.

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

(HARPREET SINGH BRAR)
JUDGE

10.03.2025*Ajay Goswami**Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*