

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

783

2026.PHHC.063415



CRA-S-4126-SB-2018 (O&M)
Decided on: April 24, 2026.

SATNAM AND ANOTHER

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

PRESENT Mr. D.S. Virk, Advocate,
for the appellants.

Mr. Onkar Singh Wahla, Sr. DAG, Haryana.

VINOD S. BHARDWAJ. J. (ORAL)

The instant appeal has been preferred against the judgment of conviction and order of sentence dated 18.09.2018 passed by the Special Judge, Kaithal, in Sessions (NDPS) case bearing No.37 dated 23.11.2016 arising out of FIR bearing No.197 dated 26.10.2016, under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the 'NDPS Act'), registered at Police Station

Guhla, District Kaithal, whereby the appellants have been convicted for commission of offence under Section 15 (b) of the NDPS Act, for having been found in possession of 02 kilograms of poppy straw and vide order of even date have been sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.25,000/- and in default of payment of fine to further undergo simple imprisonment for a period of two months.

2 In brief, it is the version of the prosecution that on 26.10.2016, a police party headed by Assistant Sub-Inspector Shiv Kumar (PW4) of CIA-I, Kaithal and consisting of Exemptee Assistant Sub-Inspector Virender Kumar (PW5), Head Constable Sanjay Kumar and Exemptee Head Constable Rajesh Kumar, was present near the water distributory and Community Health Centre, Guhla, for patrol and crime detection duty in a Government vehicle bearing registration No. HR64-3860, when Constable Narender Singh (PW8) met Assistant Sub-Inspector Shiv Kumar and got his statement 'Ex.P5', recorded as under:

"I am posted in CIA-I, Kaithal. Today when I was present at Samadha Road, Guhla, in connection with secret duty, informer met me and told me that Sattu son of Chuhar Ram and Vicky Ram son of Surjeet Singh, residents of village Chanchak, were fond of keeping illicit weapons and most of the time, they were remaining together and on that day also, after a while, they will come towards Guhla, from the side of village Chanchak and if barricade was laid, both of them could be apprehended with illicit weapons."

3 As the information was supplied by a social and reliable person, Constable Narender Singh got recorded his statement to the Investigating Officer. Assistant Sub-Inspector Shiv Kumar shared the secret information with the fellow police officials, and thereafter, the police party laid a barricade on the water distributorv Guhla, towards village Samadha. After about half an hour, two young boys, matching the description furnished by the informer, came on a motorcycle from the side of Samadha Road and on their coming near, they were stopped with the motorcycle. The boy riding the motorcycle identified himself as appellant Satnam alias Sattu, and the pillion rider identified himself as appellant Vicky Ram son of Surjeet Singh. There was a polythene of green colour between both the appellants, on opening which, poppy straw was found. Appellant also confirmed that there was poppy straw in the polythene. On weighing the polythene, it was found to be 2 kilograms of poppy straw. Parcel of the polythene was prepared, upon which two seals of monogram of 'NK' were affixed. A sample seal impression sheet was also prepared. Seal after use was handed over to Exemptee Assistant Sub-Inspector Virender Kumar. The motorcycle was recovered, having registration No. PB65W-3625 and its make was Hero HF Deluxe of black colour, chassis No. MBLHA11EWD9C17930 and Engine No. HA11EFD9C17928. Parcel of poppy straw, sample seal impression sheet and motorcycle were taken into possession of the police vide seizure memo 'Ex.P6'. Written intimation 'Ex.P2' was sent to the Police Station through Head Constable Sanjay Kumar for registration of F.I.R. for the commission of an offence punishable under Section 15 of the NDPS Act. Site plan 'Ex.P7', of the

place of occurrence, was prepared. Appellants were arrested. Assistant Sub-Inspector Shiv Kumar produced the witnesses, appellants, motorcycle and case property before the S.H.O. of the Police Station, who verified the facts of the case from the appellants and witnesses separately and affixed his one seal of monogram of 'KS', on the parcel of the poppy straw as well as on the sample seal impression sheet. S.H.O. also attested the case property, sample seal impression sheet and seizure memo; kept the seal with him after use and directed Assistant Sub-Inspector Shiv Kumar to deposit the case property with the M.H.C. of the Police Station in the 'Malkhana' (a store in the Police Station for housing the case property) of the Police Station and lodged the appellants in the lock-up of the Police Station.

4 On the same day, the case property and appellants were produced before the Court of Sub Divisional Judicial Magistrate, Guhla, who drew two samples of 100 grams each and affixed his one seal of monogram of 'AKG', on the bulk parcel of poppy straw. Sub Divisional Judicial Magistrate, Guhla, also affixed his two seals of monogram of 'AKG', on the sample parcels, and two sample seal impression sheets were also prepared. Photographs 'Ex.P13' to 'Ex.P15' of the appellants and case property were clicked, which were attested by the Sub Divisional Judicial Magistrate, Guhla, on 26.10.2016. One sample parcel was sent to F.S.L. Madhuban.

5 After completion of the investigation, report under Section 173 (2) of the Code of Criminal Procedure, 1973, was forwarded to the Court against both the appellants, a copy of which, along with

accompanying documents, was supplied to both the appellants free of cost as envisaged under Section 207 of the Code of Criminal Procedure, 1973.

6 After hearing arguments, appellants were charge-sheeted under the provisions of Section 228 (1) (b) of the Code of Criminal Procedure, 1973, for the commission of an offence punishable under Section 15 (b) of the NDPS Act, to which they pleaded not guilty and claimed trial.

7 Prosecution in support of its case examined the Head Constable Rakesh Kumar as PW1; Exemptee Assistant Sub Inspector Kitab Singh as PW2; Inspector/SHO Manish Kumar as PW3; Assistant Sub Inspector Shiv Kumar, the investigating Officer as PW4; Exemptee Assistant Sub Inspector Virender Kumar as PW5; Sub Inspector Baljeet Singh as PW6; Exemptee Head Constable Ishwar Singh as PW7; and Constable Narender Singh as PW8.

8 After the completion of the prosecution evidence, the appellants were examined in terms of Section 313 of the Code of Criminal Procedure, 1973, to explain the circumstances appearing in evidence against them. The incriminating evidence appearing on record was put to both the appellants, who denied the evidence as incorrect.

9 In the defence evidence, the appellants tendered a photocopy of the statement of Sub-Inspector Baljeet Singh, recorded under Section 161 of the Code of Criminal Procedure, 1973, as Ex. D1, and the defence evidence was closed thereafter.

10 The parties were heard by the trial Court, and after considering the evidence adduced and the rival submissions advanced, the appellants were convicted for the commission of an offence under Section 15 (b) of the NDPS Act, 1985 and sentenced as above. Hence, the present appeal.

11 Learned counsel for the appellants states that he is not pressing the prayer to challenge the judgment of conviction and confines himself only to the reduction of sentence.

12 Since counsel for the appellants has chosen not to assail the judgment of conviction and has confined his submissions solely to the question of sentence, counsel for the appellants has been heard on the issue of quantum of sentence.

13 Learned counsel appearing on behalf of the appellants submits that the FIR in the present case pertains to the year 2016 and that a considerable period of time has elapsed since then, during which the appellants have faced the ordeal of a protracted trial spanning nearly a decade. It is further contended that, as per the custody certificates, the appellants have undergone an actual sentence of 08 months. Learned counsel submits that the appellants were approximately 31 and 19 years respectively at the time of the occurrence and that a substantial period of about 10 years has passed thereafter. He also submits that the appellants have familial responsibilities to discharge, and in view of the totality of circumstances, including the long lapse of time and the custody already undergone, the sentence imposed upon the appellants be reduced to the period already undergone.

14 State counsel, on the other hand, contends that the trial Court has considered the entire evidence and that independent witnesses had been joined. He contends that the trial Court has passed a well-reasoned and speaking judgment after meticulously appreciating the entire oral as well as documentary evidence on record. The findings recorded are based on cogent, reliable, and trustworthy evidence and do not call for any interference. The recovery had been proved through consistent testimonies of prosecution witnesses, and the same was corroborated by documentary evidence, hence, the prosecution successfully established its case.

15 I have heard learned counsel for the parties on the question of sentence.

16 In the present case, there is nothing on record to reflect that the appellants have a criminal bent of mind or that their conduct poses any threat to society. Hence, by the broader principles of criminal jurisprudence, no adverse presumption can be drawn against her.

17 This court, vide **judgment dated 14.11.2025 in CRR 2697 of 2025 titled as Lakshay Jain v State of Punjab & Another** has held as under: -

“32. The imposition of punishment is a refined judicial function that demands a careful harmonization of its underlying purposes namely, retribution, deterrence, and reformation. This balance must reflect not only the reasoning of the Court but also the ethical standards and social context in which justice is administered. As societal values and circumstances evolve, the prominence accorded to each of

these aims necessarily varies, requiring the Court to adapt its emphasis in response to the changing demands of justice. The aforesaid principle found early articulation in the writings of Justice Caldwell, who, in his authoritative work "Criminology," observed that:

"If the infliction of pain is to have its greatest effect upon the behavior of a person, it must follow soon after the act for which it is given. But punishment always takes place weeks or even months after the offense has been committed, since the offender must first be apprehended, tried, and convicted. Such delay tends to disconnect the punishment from the offense in the mind of the offender, and it may well be considered as merely another painful experience in an unjust world."

33. Moreover, Italian criminologist and jurist Cesare Beccaria, in his seminal treatise "On Crimes and Punishments," propounded the doctrine of penal parsimony, emphasizing that the justification of any criminal justice system rests upon its capacity to inflict the least possible evil necessary to achieve its ends. The underlying premise is that punishment, being in itself a necessary evil and devoid of inherent virtue, must be confined strictly within the bounds of necessity. The imposition of suffering or restriction upon an offender cannot extend beyond what is indispensable for the preservation of social order.

34. While 'retributive' object of sentencing is seen regressive, in modern day sentencing jurisprudence for its focus on punishing proportionally for the harm done and caters to the negative senses of spite and anger against a wrongful act, the rehabilitative/reformative approach examines the circumstances surrounding the offender on social, economical, physical and psychological level so as to

reintegrate the offender in the social mainstream. The law extends the benefit of good and perceives a probability and possibility of reform. It aims at capitalising a perceived social liability. The expectation of law is based on the surrounding circumstances to distinguish between a 'criminal' and an 'offender'.

35. While the pre-requisites of crime do not distinguish two persons, on the legal scale, this aspect is significant for sentencing. A mere involvement of a person in crime may not necessarily mark a person as a 'criminal.' 'Criminality' in mind and action has to be determined from the totality of circumstances including the mode and manner in committing an offence, the conduct pre and post the offence, the criminal antecedents, nature of involvement, influence of peers etc. and not just from an isolatory consideration of commission of an offence. A Court of law would not assume every offender to be beyond reform and differentiate in punishment on considering whether the offences arise due to human error or that stem from actions propelled by mens rea.

36. The case in hand is yet another where interest of justice would warrant a reformatory approach in precedence to a punitive or retributive approach. It is not the function of the judges to seek the transformation of human nature itself, but rather to shape the framework within which individuals perceive that adherence to the law aligns with their own best interests."

18 Taking into consideration the facts and circumstances of the present case and the mitigating circumstances enumerated above, I find that the prolonged incarceration, the protracted criminal trial and the consequent agony faced by the appellants, the actual sentence out of total

sentence already undergone by them, the reformatory tendency shown by the appellants by not indulging in any other offence, the age of the appellants at the time of the incident as well as the legal principles reproduced above, are adequate grounds for adopting a calibrated approach in the matter of sentence.

19 The present appeal is accordingly **partly allowed**. While the judgment of conviction dated 18.09.2018 passed by the Special Judge, Kaithal, is affirmed, the order of sentence of even date is modified, and the sentence awarded to the appellants is reduced to the period already undergone by them.

April 24, 2026.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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