

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 76 of 2014.

Reserved on: 22.08.2026.

Decided on: 16.09.2026.

Uploaded on: 16.09.2026.

State of Himachal Pradesh

...Appellant.

Versus

Jeet Ram and another

...Respondents.

Coram

Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Hon'ble Mr. Justice Ranjan Sharma, Judge.

Whether approved for reporting? ¹ Yes

For the Appellant.

Mr. Raj Negi, Deputy Advocate General.

For the Respondents:

Ms. Tejasvi Thakur, Advocate, vice Mr. Pawnish Shukla, Advocate.

Vivek Singh Thakur, Judge

State of Himachal Pradesh has preferred this appeal against acquittal of respondents, vide judgment dated 01.11.2013 passed by Special Judge, Kullu, District Kullu, H.P. in Sessions Trial No. 26 of 2011 (40 of 2013), titled State vs. Jeet Ram and another in Case FIR No. 9/2011, dated 10.01.2011, registered in Police Station Kullu, District

¹ Whether the reporters of the local papers may be allowed to see the judgment?

Kullu, H.P., under Sections 20 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act).

2. Prosecution case is that on 10.01.2011, police party headed by PW-8 ASI Dhiraj Singh left Police Station Kullu in official vehicle bearing registration No. HP-34A-9986, along with PW-5 Head Constable Parminder Kumar, PW-7 Constable Vishwa Nath, Constable Sonu Ram (not examined), Lady Constable Vidya Devi (not examined), and driver L/HC Baldev Singh (not examined), for patrolling and nakabandi in Sarsari, after recording GD Entry No. 47(A) (Ext. PW1/D), in Police Station Sadar, Kullu on 10.01.2011 at 7:25 P.M.

3. As per prosecution case, at 8:25 P.M., police party was present at a place about 2 km from Sarsari towards Bhuntar. A motorcycle bearing registration No. HP-34B-2448 came from Sarsari side towards Bhuntar, which was being driven by a man along with a lady pillion rider, and a bag was kept in between these two persons. Signal was given to stop the motorcycle. However, after applying a slight brake, motorcyclist, on seeing police *naka*, suddenly drove the motorcycle with high speed towards Bhuntar, whereupon ASI Dhiraj Singh suspected that motorcycle driver and pillion lady rider were fleeing with stolen articles and, therefore, ASI Dhiraj Singh along with accompanying police officials,

in the official vehicle, chased the motorcycle. On seeing the official vehicle coming towards him, motorcyclist stopped the motorcycle at a distance of 20 meters and alighted the lady, and lady immediately ran towards uphill side and motorcyclist drove it towards Bhuntar. After chasing him with the help of official vehicle at about distance of 25 meters, he was overpowered, who on inquiry disclosed his name as Jeet Ram (respondent No. 1) and he could not answer any satisfactory reason for fleeing from the spot. On inquiring time and again, he informed that pillion lady rider was his second wife Bheema Kali. He could not produce documents of the motorcycle. He was inquired about the bag kept on the motorcycle and in response thereto, Jeet Ram told that he and his wife Bheema Kali were owners of the bag, which contains their own personal articles. Three stripes blue coloured bag was checked, and it was found that on both side pockets as well as in the front pocket, a big chain was there. In three pockets, nothing was found, however, on opening larger chain of the bag, an orange-coloured handbag was found therein with print thereon as Tip-Top Main Bazaar, Bhuntar.

4. On opening the bag, sticks type black coloured contraband was recovered in wrap of transparent polythene. On smelling and on the

basis of experience, recovered contraband was identified by Police as Charas, which on weighing was found to be 2 Kg 200 Grams.

5. The recovered contraband was put in the same hand bag, and after tying a knot, it was put in blue bag, and chain of the bag was closed and bag was sealed in parcel of cloth by putting 9 seals of 'T', and NCB Form was filled in triplicate. Separate samples of seals were taken on clothes. On the parcel, witnesses and accused Jeet Ram put their signatures on it, and seal was handed over to witness Head Constable Parminder Kumar.

6. Regarding recovery, seizure, and sealing of contraband, seizure memo Ext. PW-5/B was prepared and vide memo Ext. PW-5/C, motorcycle was taken into possession in presence of witnesses PW-5 Head Constable Parminder Kumar and PW-7 Constable Vishwa Nath.

7. PW-5 Head Constable Parminder Kumar, PW-7 Constable Vishwa Nath and accused Jeet Ram had put their signatures on seizure memos. Copy of memo was supplied to the accused free of cost.

8. During investigation, Bheema Kali was traced and was arrested on 15.02.2011, vide arrest memo (Ext. PW4/A).

9. At about 9:45 P.M., ruqua (Ext. PW8/A) was handed over by Investigating Officer (PW-8) ASI Dhiraj Singh to PW-7 Constable Vishwa

Nath for registration of FIR in Police Station Sadar Kullu. PW-7 Constable Vishwa Nath reached Police Station after taking lift of vehicle from spot to Bhuntar, and thereafter, from Bhuntar to Kullu and, accordingly, FIR No. 9/2011 dated 10.01.2011 was registered in Police Station Sadar Kullu at 10:30 PM. Endorsement (Ext. PW6/A) in this regard was made by PW-6 SI Om Chand in ruqua (Ext. PW8/A).

10. After registration of FIR, respondent Jeet Ram was arrested at about 10:50 PM on the spot, vide arrest memo Ext. PW5/D in presence of witnesses PW-5 Head Constable Parminder Kumar and Constable Sonu Ram (not examined), and information of his arrest was transmitted to his first wife on mobile phone, supplied by him. Personal search of respondent No. 1 Jeet Ram was also conducted in presence of witnesses PW-5 Head Constable Parminder and PW-7 Constable Vishwa Nath. A copy of memo *Jama Talashi* was supplied to Jeet Ram free of cost and Jeet Ram had put his signature on the memo on 15.01.2011.

11. After completion of investigation, Challan was presented in the Court by Sher Singh (not examined).

12. After finding *prima facie* material, Trial Court framed charge against respondents under Sections 20 and 29 of NDPS Act. For not pleading guilty, respondents were subjected to trial.

13. During trial, prosecution has examined 8 witnesses to substantiate its case, whereas after recording of statement under 313 Cr.P.C. of the accused persons, one witness DW-1 Abraham was examined.

14. On finding no sufficient material and lack of evidence, respondents have been acquitted by the Trial Court.

15. We have heard learned Deputy Advocate General as well as learned counsel appearing for respondents, and have also gone through the record.

16. Admittedly, there is no independent witness in present case and the main star official witnesses are PW-8 ASI Dhiraj Singh (Investigating Officer), PW-5 Head Constable Parminder Kumar, who were present on the spot throughout, and PW-7 Constable Vishwa Nath, who took ruqua to Police Station Sadar for registration of FIR and handed over the same back to ASI Dhiraj Singh at Dhalpur, where he met the police party coming from the spot to Police Station.

17. PW-1 Head Constable Ram Krishan is MHC. He has deposed regarding deposit of parcel containing 2.200 kg of Charas sealed with 9 seals of 'T', re-sealed with 6 seals of 'P', NCB-1 form in triplicate, sample seals 'T' and 'P', photocopy of seizure memo available

with the respondent. He handed over parcel of contraband along with relevant documents to PW-3 HHC Tek Chand, vide RC No. 7 of 11 (Ext. PW1/B), who in turn deposited the same in FSL Junga and deposited the receipt. He has also produced abstract of register (Ext. PW1/A), regarding entry of depositing of parcel along with documents by PW-6 SI Om Chand and he had also filled column No. 12 of NCB form.

18. PW-1 HC Ram Krishan has also stated that PW-6 Om Chand had also deposited the articles recovered during personal search of the accused and motorcycle bearing registration No. HP-34B-2448 along with key, which was later on released by the orders of the Court. He has also proved Daily Diary Rapat Nos. 47 and 54 as Ext. PW1/D and Ext. PW1/E as true and correct copy of these rapats.

19. In cross-examination, this witness (PW-1) has admitted that some seals of parcel were broken, however, Court observation in this regard was recorded that 6 seals of seal 'T', 2 seals of seal 'P', and 5 seals of seal FSL are legible. However, some of seals were broken.

20. PW-2 HHC Nirat Singh has proved on record receipt of Special Report by Dy.S.P Ram Lal Bansal, which was handed over by Dy.S.P. to this witness, who was reader to Dy.S.P. at that time. He has

proved copy of the Special Report (Ext. PW2/A) and entry made by him in the register in this regard is Ext. PW2/B.

21. PW-3 HHC Tek Singh had taken the contraband along with documents to State FSL.

22. PW-4 ASI Kesar Singh has partially investigated the case and had arrested Bheema Kali vide memo Ext. PW4/A in presence of LHC Tripta and LHC Manoj Kumari (not examined), and information of her arrest was given to the person as desired by her. He had got the personal search of Bheema Kali conducted through LHC Manoj Kumari vide memo Ext. PW4/B. He recorded statements of witnesses as per their version.

23. PW-6 SI Om Chand, who was officiating as SHO on 10.01.2011 in Police Station Kullu, had registered FIR (Ext. PW6/B) after receiving ruqua (Ext. PW8/A) through PW-7 Constable Vishwa Nath, written by PW-8 ASI Dhiraj Singh. After recording the FIR, he made endorsement (Ext. PW6/A) on ruqua. On the same day, on handing over sealed parcel along with documents by PW-8 ASI Dhiraj Singh, he re-sealed the parcel with seal 'P' and filled columns No. 9 to 11 of NCB form and sample seal on a piece of cloth Ex. PW-6/C and NCB Form were also

taken. He handed over the case property to MHC to deposit the same in the Malkhana at about 11:50 P.M.

24. PW-5 Head Constable Parminder Kumar, PW-7 Constable Vishwa Nath, and PW-8 ASI Dhiraj Singh are witnesses of the spot.

25. PW-5 Head Constable Parminder Kumar witnessed the search and seizure, and he, as per his deposition, has also witnessed sample seal Ext. PW5/A, seizure memo Ext. PW5/B, taking of possession of motorcycle vide memo Ext. PW5/C, and preparation of ruqua by PW-8 ASI Dhiraj Singh and handing over the same to PW-7 Constable Vishwa Nath for delivering the same in Police Station Kullu for registration of FIR. He along with witnesses put signatures on various documents and parcels, and Jeet Ram had also put his signatures on parcels and seizure memo. He has witnessed Investigating Officer preparing the spot map and recording statements of witnesses. He has also witnessed arrest of accused vide memo Ext. PW5/D and personal search of accused Jeet Ram vide memo Ext. PW5/E.

26. PW-7 Constable Vishwa Nath remained on the spot up to 9:45 PM when ruqua (Ext. PW8/A) was prepared and handed over to him to be taken to the Police Station for registration of FIR. He has witnessed the search and seizure memo, filling of NCB form in triplicate, sample

seals of seal 'T' drawn by the Investigating Officer on Ext. PW5/A, recovery memo Ext. PW5/B, taking into possession of the motorcycle vide memo Ext. PW5/C, and he reached in the Police Station by taking lift and FIR was registered at 10:30 PM. In return, he met the police party at Dhalpur, which was coming back to the Police Station and at Dhalpur, he handed over the case file to PW-8 ASI Dhiraj Kumar.

27. PW-8 ASI Dhiraj Kumar in examination-in-chief has reiterated the prosecution case with statement that personal search of accused was effected after arrest vide memo Ext. PW5/E, and arrest memo Ext. PW5/D was also prepared by him and information of arrest of Jeet Ram was given to his first wife Kala Devi, as desired by Jeet Ram.

28. Though in examination-in-chief PW-5 Head Constable Parminder Kumar, PW-7 Constable Vishwa Nath and PW-8 ASI Dhiraj Singh have tried to corroborate the prosecution's case, however, on perusal of record, revelation of certain facts creates doubt about the prosecution story. According to prosecution's case, motorcycle on signal was slowed down by Jeet Ram. PW-5 Head Constable Parminder Kumar and PW-8 ASI Dhiraj Singh have deposed the said fact. However, according to PW-7 Constable Vishwa Nath, on signal given by ASI Dhiraj Singh, motorcycle was stopped, and then after seeing the police party, he

fled away, whereupon motorcyclist was chased in official vehicle. It has also come in the evidence of PW-5 Head Constable Parminder Kumar that he was having search light and he switched on the search light, when motorcycle was at a distance of approximately about 1-2 steps.

29. It is also case of the prosecution that the motorcyclist stopped the motorcycle at a distance of 20 meters and facilitated the lady Bheema Kali to get down and flee from the spot. It has been admitted by PW-5 Head Constable Parminder Kumar that there was a gorge of 150 meters on right side and left side there was a steep hillock. It is case of the police that the lady after alighting from the motorcycle ran towards the hillock side, however, with further assertion that nobody was sent to search the lady. It appears to be unbelievable that a motorcycle being chased by the police in official vehicle, stopped at a distance of 20 meters, and the lady pillion rider managed to get down and ran away, because 20 meter distance in a moving vehicle is covered in one to three seconds, and in case things would have happened as per prosecution story, the police official vehicle must have reached near the motorcycle when it was stopped approximately at a distance of 20 meters.

30. Further, it is case of prosecution that after alighting lady accused, motorcycle rider again fled towards Bhuntar and was chased at

a distance of 25 meters thereafter. It is case of the prosecution that a bag was kept between two riders of the motorcycle, and on chasing Jeet Ram, the said bag remained as it is on the motorcycle, despite the fact that there was no pillion rider, while motorcycle was being driven, but the bag remained on the seat behind the motorcyclist. It is again unbelievable.

31. Jeet Ram was arrested on 10.01.2011 at 10:15 P.M. It is claim of the prosecution that Bheema Kali was his second wife. Arrest memo of Bheema Kali Ext. PW4/A dated 15.02.2011 indicates that according to prosecution case, Bheema Kali opted to give information of her arrest to her husband Jeet Ram, who was already in detention, but it is also a fact that signature of Jeet Ram has also been obtained on this memo with endorsement that he became informed about arrest of his wife Bheema Kali. How and in what manner at the time of arrest of Bheema Kali at 5:30 P.M. on 15.02.2011, Jeet Ram was present to receive the information about arrest of his wife Bheema Kali, it is again a mystery.

32. Ruqua (Ext. PW8/A) was prepared at 9:45 P.M. and handed over to PW-7 Constable Vishwa Nath, who after taking lift reached in the Police Station at about 10:30 P.M. and FIR was recorded at 10:30 P.M. He did not return to the spot, but met the police party at Dhalpur and handed over the case file to PW-8 ASI Dhiraj Singh at Dhalpur. But

contradict the documents prepared by Investigating Officer regarding personal search of Jeet Ram.

33. Jeet Ram was arrested at 10:50 PM on the spot. His arrest memo Ext. PW5/D has been witnessed by PW-5 Head Constable Parminder Kumar and Constable Sonu Ram (not examined). According to PW-5 Head Constable Parminder Kumar, before arresting Jeet Ram, his *Jama Talashi* was taken, meaning thereby *Jama Talashi* was taken before 10:50 P.M.. In any case, as stated by PW-8 ASI Dhiraj Singh, if *Jama Talashi* of Jeet Ram was taken after his arrest at 10:50 P.M., then also personal search of Jeet Ram was conducted on the spot at about 10:50 P.M. It is relevant to notice that personal search memo of Jeet Ram has been witnessed by PW-5 Head Constable Parminder Kumar and PW-7 Constable Vishwa Nath.

34. From the aforesaid timeline, as per prosecution evidence, PW-7 Constable Vishwa Nath had left the spot at 9:45 P.M. and he never returned back to the spot. It completely shattered the story of the police regarding timing of apprehending Jeet Ram, his arrest, and conduct of his personal search, as PW-7 Constable Vishwa Nath could not have been present at the time of personal search of Jeet Ram.

35. It is also apt to record that according to PW-7 Constable Vishwa Nath and PW-8 ASI Dhiraj Singh, Charas was found in orange-coloured bag, kept in blue-coloured bag. However, in Ex. PX, examination report of State FSL, there is no reference of orange or blue colored bag. The report is silent in this regard.

36. PW-5 Head Constable Parminder Kumar is also a witness to personal search memo Ext. PW5/E of Jeet Ram, but in his deposition in the Court, he has not deposed so, but is completely silent in this regard.

37. PW-5 Head Constable Parminder Kumar has identified the pillion lady rider in the Court as Bheema Kali, who according to him was pillion rider of the motorcycle. However, in cross-examination, he has stated that he identified the accused Bheema Kali in the Court since she was arrested in the case later on. It also indicates that it is not a case where she was identified by PW-5 Head Constable Parminder Kumar on the basis of face seen on the day of alleged recovery of contraband. According to PW-5 Head Constable Parminder Kumar, statement of Constable Vishwa Nath was also recorded on the spot, whereas according to Constable Vishwa Nath, his statement was recorded in Police Station.

38. In view of the aforesaid discrepancies and contradictions in the statements of official witnesses, it is apparent that the truth is being hidden by the prosecution and the occurrence has not happened in the manner as claimed by the prosecution.

39. The evidence on record creates doubt about veracity of the prosecution case, especially statements of PW-5 Head Constable Parminder Kumar, PW-7 Constable Vishwa Nath and PW-8 ASI Dhiraj Singh create doubt about the claim of prosecution. It is settled law that benefit of slightest doubt has to be extended to the accused.

40. Respondents are also having advantage of being acquitted by the Trial Court, fortifying the presumption of innocence in their favor.

41. Learned Deputy Advocate General has failed to point out any cogent, reliable, and convincing evidence on record to substantiate the prosecution case.

42. In view of the aforesaid discussion, we are of the considered opinion that there is no merit in the appeal and accordingly, appeal is dismissed.

43. Pending miscellaneous application(s), if any, are also disposed in the same terms.

Bail bonds stand discharged and record of Trial Court be
sent back forthwith.

**(Vivek Singh Thakur),
Judge.**

**(Ranjan Sharma),
Judge.**

16th September, 2026
(Susheel)