



2026:AHC:25571

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2236 of 2019

Bhure @ Surendra Gupta

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Aman Arya, Brijesh Kumar Singh, Suraj Singh Chauhan, Swati Agrawal Srivastava
Counsel for Respondent(s)	: G.A.

Court No. - 93

HON'BLE MRS. VANI RANJAN AGRAWAL, J.

1. Heard Shri Suraj Singh Chauhan, learned counsel for the appellant and Shri Rahul Asthana, learned A.G.A. for the State-respondent.

2. This criminal appeal has been preferred against the judgment and order dated 18.12.2018, passed by the VI Additional Sessions Judge, Kanpur Nagar in Special Criminal Case No. 213 of 2014 (C.N.R. No. U.P.K.N. 01-002560-2014), which arose from Case Crime No. 194/2014, under Section 20(b) II (c) of the N.D.P.S. Act, P.S. Sachandy, District Kanpur Nagar, whereby the accused appellant was convicted and sentenced to 10 years of rigorous imprisonment, along with a fine of Rs. 1 lakh, with a default stipulation,

3. On 28 May 2014, a police team led by Station House Officer Akhilesh Kumar Gaur was conducting vehicle checks near Bhauti Telephone Exchange, along with other police personnel. During the checking, they noticed a silver Tata Indica Vista coming from Kanpur towards Etawah. When signalled to stop, the driver attempted to flee towards Kanpur via a service road. The police pursued the vehicle and intercepted it near the boundary of Government Inter College, Bhauti. Having no means of escape, the person attempted to run but was apprehended by the police. Upon searching the vehicle, 54 packets of Charas, weighing a total of 27 kilograms, were recovered from a concealed cavity beneath the rear seat.

The accused was arrested on the spot, having failed to produce any valid licence or permit.

4. On the basis of the recovery memo, a case was registered. After completion of the investigation and finding sufficient evidence, a charge sheet was submitted before the court.

5. To prove the recovery and procedural compliance, the prosecution relied on the following documents: Ex-Ka-1 (Chick FIR), Ex-Ka-2 (General Diary Entry), Ex-Ka-3 (Charge Sheet), Ex-Ka-4 (Site Map/Naksha Nazari), Ex-Ka-5 (FSL Receipt), and Ex-Ka-6 (Recovery Memo/Fard Baramadgi). Ex-Ka-56 to Ex-Ka-110 comprised packaging materials and plastic bags, while Ex-Ka-111 to Ex-Ka-165 were cloth seals used to seal the contraband.

6. In support of its case, the prosecution examined seven witnesses:

PW-1 SI Gajendra Singh proved the Chick FIR prepared on the basis of the recovery memo and the relevant GD entries.

PW-2 SI Atar Singh, the Investigating Officer, prepared the site map and submitted the charge sheet.

PW-3 Constable Vijay Kumar deposed that he carried the sealed samples to the Forensic Science Laboratory after seal attestation on the orders of the Field Officer, Kanpur Nagar.

PW-4 Constable Umesh Kumar was a witness to the recovery and corroborated the prosecution version regarding the chase and the weighing of 27 kilograms of Charas.

PW-5 SI Akhilesh Kumar Gaur, the complainant and arresting officer, detailed the interception of the vehicle, the accused's disclosure regarding the hidden cavity, and the offer made to the accused to be searched before a Gazetted Officer or Magistrate. He further stated that Rs. 700 in cash and the car keys were recovered from the accused.

PW-6 Constable Yogesh Kumar was a witness to the arrest and recovery and corroborated the testimony of PW-5.

PW-7 C.O., B.K. Tiwari, the Circle Officer and a Gazetted Officer, reached the spot upon being informed. The search was conducted under his supervision, and he affirmed the prosecution version.

7. After the prosecution's evidence concluded, the accused's statement was recorded under Section 313 Cr.P.C. In his statement, the accused stated that the prosecution's narrative and the witnesses' statements were false and that he had been falsely implicated, claiming the case was being tried based on false facts. In defence, **DW-1 Suryakant**, the nephew of the accused, stated that on 28 May 2014, the accused was picked up by six to seven persons in plain clothes near Gurudev Cinema and was falsely implicated in the present case. However, the court rejected this testimony on the ground that it was interested evidence.

8. Learned counsel appearing on behalf of the accused submitted at the time of arguments that the accused has remained in custody since the year 2014 and has already undergone the sentence of ten years as well as the default sentence awarded in lieu of non-payment of fine. It was, therefore, submitted that the accused does not wish to press this appeal on merits and seeks an appropriate order.

9. The trial court, after considering the entire oral and documentary evidence available on record, found it proved that 54 packets of charas had been recovered from the possession of the accused. Accordingly, the accused was convicted for the offence under Section 20(b)(ii)(C) of the N.D.P.S. Act and was sentenced to ten years' rigorous imprisonment along with a fine of Rs. 1 lakh. In default of payment of fine, the accused was further directed to undergo six months' additional imprisonment. Since there is no infirmity or illegality in the impugned judgment and order passed by the learned trial court warranting any interference, the appeal lacks merit and is liable to be dismissed.

10. In light of the grounds raised in the appeal, the evidence and material available on record were re-appreciated. Upon such consideration, it was found that, according to the prosecution case, S.H.O. Akhilesh Kumar Gaur, along with other police personnel, on 28.05.2014 recovered 54 packets of illicit charas from the vehicle of the accused. Upon receiving information

regarding the illicit substance, the accused was informed of his legal rights and obligations. The accused himself disclosed that 54 packets of illicit charas had been concealed in the vehicle. Thereafter, the informant apprised the accused of his legal right to have the search conducted before a Gazetted Officer or a Magistrate. However, the accused declined to be searched before a Gazetted Officer or a Magistrate and expressed his willingness to be searched by the police party itself.

11. On the pointing out of the accused, a search of the vehicle was conducted and 54 packets containing charas were recovered from a concealed cavity made beneath the rear seat of the car. The total weight of the recovered charas was found to be 27 kilograms. The accused failed to produce any valid licence or authority for possession of the said contraband. All the prosecution witnesses examined before the trial court consistently supported the prosecution case regarding recovery of the illicit charas from the possession of the accused. No contradiction or inconsistency could be elicited in their detailed cross-examination which could create any doubt regarding the prosecution story or materially affect its credibility.

12. The contraband recovered from the accused was sent for forensic examination, and the original report of the Forensic Science Laboratory dated 30.07.2014 was available on the record of the trial court. No material discrepancy was found in the chain of custody from the place of recovery till the sample reached the forensic laboratory so as to create any doubt that the substance recovered was not charas or that there existed any possibility of tampering.

13. The contraband was recovered from the very vehicle which was being driven by the accused, Bhure @ Surendra. Further, no violation of any mandatory provision of the N.D.P.S. Act was found to have been established.

14. Considering the overall circumstances and submission of learned counsel for the appellant, learned A.G.A. for the State and after going through the evidence and lower court record, this Court is unable to form a different opinion from that of learned trial court. The learned learned trial court was fully justified in convicting the accused-respondent.

15. Learned counsel for the appellant failed to point out any illegality,

infirmity or perversity in the judgment of the learned trial court. Accordingly, the same is hereby being upheld.

16. The appeal lacks merit and is, accordingly, **dismissed**.

17. A copy of this judgment be sent forthwith along with trial court record, if received, to the court concerned for its necessary compliance.

January 30, 2026
Pravesh Mishra

(Mrs. Vani Ranjan Agrawal,J.)