

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

**Crl. Appeal No.S-2164-SB of 2016 (O&M)**

**Date of Decision: August 04, 2016**

Rattan Lal

...Appellant

VERSUS

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.Sanjay Gupta, Advocate  
for the appellant.

Ms.Shivali, Asstt. Advocate General, Punjab  
for the respondent-State.

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**INDERJIT SINGH, J.**

The present appeal has been filed by the appellant against the judgment of conviction and order of sentence dated 19.05.2016 passed by learned Judge, Special Court, Hoshiarpur, whereby the appellant was held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of ₹5,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month under Section 22 of the NDPS Act.

The brief facts of the prosecution case as noted down in the judgment passed by learned Judge, Special Court, Hoshiarpur, are as under:-

*“2. In brief, the case of the prosecution is that on 9.9.2013, SI Surinderpal Singh alongwith other police officials was present at Bhangra chowk in connection with patrol duty where PRHC Pargat Singh and Lakhwinder Singh officials of Excise*

*Department joined the police party. Thereafter, SI Surinderpal Singh received a secret information that Rattal Lal @ Kala son of Bhulla Ram resident of Ward No.1, Ahiyapur alongwith his wife Shindo was selling intoxicating capsules and illicit liquor in his house and a raid could lead to the recovery of intoxicating capsules and illicit liquor. On the basis of the secret information so received, an attempt was made to join some independent witness, but no body came forward. Thereafter, SI Surpinderpal Singh divided the police officials into two separate parties. One police party was headed by HC Jasbir Singh which included PRHC Kamaljit Singh, C-Lakhwinder Singh and PHG Ranjit Singh and the other party was headed by SI Surinderpal Singh himself and thereafter a raid was conducted at the house of accused Rattan Lal @ Kala, who on seeing police party ran away from the spot while carrying a polythene envelope in his hand. He was chased by the police party but after some distance, the accused threw the polythene envelope and succeeded in fleeing away from the spot. The polythene envelope was searched which resulted into recovery of 10 strips of Spasmo Proxyvon Plus capsules each strip containing 24 capsules. Two strips of 24 capsules each were separated and converted into a separate parcels. The remaining 8 strips were also converted into separate parcels. The parcels were sealed by SI Surinderpal Singh with his seal bearing impression 'SPS' and the same was taken into possession vide recovery memo Ex.PB. Since the accused Rattan Lal @ Kala had committed an offence by keeping in his possession 10 strips of Spasmo Proxyvon Plus capsules (240 capsules), ruqa Ex.PW4/A was sent to the police station and on the basis thereof, a case was registered against the accused under Sec.22/61/85 of the NDPS Act vide FIR Ex.PW4/B. Site plan Ex.PW4/D of the place of recovery was prepared. Statements of witnesses were recorded. 3. On return to the police station, the case property was deposited with MHC. During the course of investigation, one sample parcel was sent to the office of Chemical Examiner and after receipt of the report of Chemical Examiner and completion of all the necessary formalities, challan against the accused was prepared and presented in the court.”*

On presentation of challan against accused-appellant, copies of challan and other documents were supplied to him under Section 207 Cr.P.C. Finding prima facie case, the accused-appellant was charge-sheeted under Section 22 of the NDPS Act, to which he pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 Constable Rahul Kaundal, PW-2 ASI Daljit Singh, PW-3 Head Constable Mahesh Kumar, PW-4 SI Surinderpal Singh, Investigating Officer, PW-5 Inspector Shiv Singh and PW-6 Inspector Satinder Kumar.

At the close of prosecution evidence, the accused-appellant was examined under Section 313 Cr.P.C. He was confronted with the evidence of the prosecution but he denied the correctness of the evidence and pleaded himself as innocent.

No witness was examined in defence.

The learned trial Court, after appreciation of the evidence, convicted and sentenced the accused-appellant as stated above.

At the time of arguments, learned counsel for the appellant did not dispute the findings regarding conviction and only prayed for reduction of sentence of the appellant. Learned counsel for the appellant contended that 10 strips of Spasmo Proxyvon Plus Capsules (240 capsules) have been recovered from the accused-appellant, which falls under non-commercial quantity. He also contended that the appellant is suffering from criminal proceedings since 2013. He is first offender and only bread earner of the family. He further contended that accused-appellant has already undergone 2 months and 15 days of actual sentence.

On the other hand, learned State counsel argued that case of the prosecution has been duly proved by the PWs. There is nothing on the record to show false implication of the accused in the present case. He next argued that PWs have consistently deposed regarding the recovery from the accused. Learned State counsel, therefore, argued that there being no merit,

the present appeal should be dismissed.

I have heard learned counsel for the appellant as well as learned State counsel and have gone through the record.

Keeping in view the facts and circumstances of the present case and in view of the fact that appellant is first offender, only bread earner of the family and is suffering from long protracted criminal proceedings since 2013 i.e. for the last about 3 years and further in view of the fact that appellant has already undergone actual sentence of 2 months and 15 days out of the total sentence and keeping in view the fact the recovery from the accused-appellant falls under non-commercial quantity i.e. 10 strips of Spasmo Proxyvon Plus Capsules (240 capsules), the sentence imposed upon the appellant is reduced to the sentence already undergone by him. However, the sentence of fine and in default sentence, will remain the same.

Accordingly, present criminal appeal stands partly allowed.

Appellant Rattan Lal, who is in custody, be set at liberty forthwith, if his custody is not required in connection with any other case, subject to payment of fine, if already not paid.

**August 04, 2016**  
Vgulati

**(INDERJIT SINGH)**  
**JUDGE**

Whether speaking/reasoned

**Yes**

Whether reportable

**No**