

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

**Crl. Appeal No.S-4546-SB of 2015 (O&M)**  
**Date of Decision: February 17, 2017**

Jagir Singh alias Jagira

...Appellant

**VERSUS**

State of Punjab

...Respondent

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

Present: Mr.Veneet Sharma, Advocate  
for the appellant.

Mr.K.S.Aulakh, 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 State of Punjab, challenging the judgment of conviction and order of sentence dated 24.08.2015 passed by learned Judge, Special Court, Amritsar, whereby the appellant was held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of ₹3,000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of two months 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, Amritsar, are as under:-

*“2. In nutshell, case of the prosecution is that on 5.7.2012 ASI Baldev Singh, as per the instructions given by Inspector Narcotic Cell, Border Range, Amritsar laid a picket at bridge*

*of drain in the area of village Neshap on the the road leading to Attari-Chabal and started checking vehicles. One mulla fashion person was seen coming to the metaled road from Kutcha passage Dhusi village Mohawa. On seeing police party, he suddenly turned backward. On the basis of suspicion, ASI Baldev Singh with the help of other police officials encircled that person to apprehend him. During that process, he took out something wrapped in polythene envelope from right pocket of his pant and tried to throw the same on earth. ASI caught hold him from wrist of his right hand. On asking, he told his name as Jagir Singh alias Jagira son of Swaran Singh. Before checking polythene envelope held by accused in his right hand, ASI tried to join some independent witness in the police party, but none agreed. On checking the recovered polythene envelope intoxicant powder was recovered. Out of recovered powder two samples of 10 grams each were drawn and were put in separate plastic boxes. On weighing, remaining powder was found 230 grams, which was put in separate plastic box. All the boxes were converted into parcels and were sealed with his seal "BS" by ASI Baldev Singh. He prepared sample impression of seal and Form M-29 at the spot. Seal after use was handed over to ASI Ashwani Kumar. Ruqa was sent to the police station and FIR was registered. During personal search of the accused, five currency notes of Rs.10/- denomination each were recovered. Accused was arrested. On completion of the investigation at the spot ASI alongwith other officials and accused and all the parcels, Form M-29 and specimen seal went to the police station and produced the same before SHO Sikander Singh who sealed all the parcels with the seal impression 'SS' after the checking intactness of the seals and also affixed his specimen seal 'SS' on Form M29. Sample seal was prepared separately by SHO and he kept his seal with him. SHO kept all the parcels, Form M-29 and specimen seals in the double lock of Malkhana in his custody. On the next day i.e. 6.7.2012, SHO Sikander Singh handed over all the parcels, Form M29 and specimen seals to ASI Baldev Singh, after taking out from the double lock of Malkhana alongwith and application, for producing same before Ilaqa Magistrate. After producing case property before Magistrate, all the parcels, Form M-29 and specimen seals were produced before SHO who kept the same in the double lock of Malkhana. On 9.7.2012, after taking the bulk parcel and sample parcel out of the double lock of malkhana SHO handed over same to ASI Baldev Singh, who deposited the same in judicial malkhana as per order of the Ilaqa Magistrate. During investigation statements of witnesses were recorded. Later on one sample parcel was sent to the office of Chemical Examiner. On completion of the investigation and on receipt of the report of chemical examiner challan in the present case 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 SI Ashwani Kumar, PW-2 Inspector Baldev Singh, Investigating Officer, PW-3 ASI Prabhjit Singh, PW-4 Head Constable Bhupinder Singh and PW-5 Inspector Sikander Singh.

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 and he denied the correctness of the evidence and pleaded himself as innocent and his false implication in the present case.

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 250 grams of intoxicant powder containing 'Dextropropoxyphene' has been recovered from the accused-appellant, which falls under non-commercial quantity. He also contended that the appellant is suffering from criminal proceedings since 2012. He further contended that the appellant is first offender, poor person and only bread earner of the family. Learned counsel for the appellant next contended that appellant has already

undergone 7 months and 16 days of actual sentence upto 24.12.2015.

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.

In view of the evidence, I find that the prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt. Therefore, the judgment of conviction dated 24.08.2015 passed by learned Judge, Special Court, Amritsar, is correct, as per law and does not require any interference from this Court.

However, keeping in view the facts and circumstances of the present case and in view of the fact that appellant is first offender, poor person, only bread earner of the family and is suffering from long protracted criminal proceedings since 2012 i.e. for the last about 5 years and further in view of the fact that appellant has already undergone actual sentence of 7 months and 16 days upto 24.12.2015 and keeping in view the fact the recovery from the accused-appellant falls under non-commercial quantity i.e. 250 grams of intoxicant powder containing 'Dextropropoxyphene', the sentence imposed upon the appellant is reduced to the sentence already undergone by him. However, the sentence of fine and in default thereof, shall remain the same. The appellant is directed to pay the fine within one month from the date of receiving the certified copy of the order, if already

law.

Accordingly, present criminal appeal stands partly allowed.

Since, appellant Jagir Singh alias Jagira is on bail, his bail/surety bonds stand discharged.

**February 17, 2017**  
Vgulati

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

Whether speaking/reasoned  
Whether reportable

**Yes**  
**No**