

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

(1) **CRA-D-46-DB of 2015 (O&M)**

Parshotam Lal Sondhi

...Appellant

Versus

Intelligence Officer, Directorate of Revenue Intelligence, Sub Unit,
Amritsar.

...Respondent

(2) **CRA-D-115-DB of 2015(O&M)**

Surinder Singh @ Bittu Atwal

...Appellant

Versus

Intelligence Officer, Directorate of Revenue Intelligence, Amritsar.

...Respondent

Date of decision:-30.11.2018

**CORAM : HON’BLE MR. JUSTICE A.B.CHAUDHARI
HON’ BLE MR. JUSTICE H.S. MADAAN**

Present : Mr. Anmol Rattan Sidhu, Senior Advocate with
Mr. G. S. Ghuman, Advocate and
Mr. Mahir Sood, Advocate
for the appellant in CRA-D-46-DB-2015.

Mr. Sumit Sharma, Advocate
for the applicant-appellant in CRA-D-115-DB-2015.

Mr. D. D. Sharma, Advocate, Standing Counsel
for the Directorate of Revenue Intelligence.

H.S. MADAAN, J.

Vide this judgment, we propose to dispose of two appeals i.e. **CRA-D-46-DB of 2015** filed by appellant Parshotam Lal Sondhi and **CRA-D-115-DB of 2015** filed by appellant Surinder Singh @ Bittu Atwal, both accused, who were tried and convicted by the Court of learned Judge, Special Court, Amritsar vide impugned judgment dated 26.11.2014 and vide order dated 27.11.2014, they were sentenced as follows:

Name of convict	Offence under Section	Sentence
Parshotam Lal Sondhi	21 NDPS Act	Rigorous imprisonment for a period of 12 years and to pay a fine of Rs.1,00,000/- and in default thereof, to further undergo rigorous imprisonment for two years.
	29 NDPS Act	Rigorous imprisonment for a period of 12 years and to pay a fine of Rs.1,00,000/- and in default thereof, to further

		undergo rigorous imprisonment for two years.
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Name of convict	Offence under Section	Sentence
Surinder Singh @ Bittu Atwal	21 NDPS Act	Rigorous imprisonment for a period of 12 years and to pay a fine of Rs.1,00,000/- and in default thereof, to further undergo rigorous imprisonment for two years.
	25 NDPS Act	Rigorous imprisonment for a period of 12 years and to pay a fine of Rs.1,00,000/- and in default thereof, to further undergo rigorous imprisonment for two years.
	29 NDPS Act	Rigorous imprisonment for a period of 12 years and to pay a fine of Rs.1,00,000/- and in default thereof, to further undergo rigorous imprisonment for two years.

All the substantive sentences were ordered to run concurrently.

The accused-convicts, who are appellants before this Court, pray that their appeals be accepted, the impugned judgment of their conviction and order of sentence be set aside and they be acquitted of the charge framed against them.

Briefly stated, the facts of the case as per the prosecution story are that a specific intelligence in/out was received by Directorate of Revenue Intelligence (hereinafter referred to as

DRI) that some narcotic/drugs were being transported in one Indica Car bearing registration No.PB-08-BB-7311, which would be going towards Rajasansi Airport around midnight of 22.3.2008; that the said intelligence report was reduced into writing and the senior officers of the DRI were informed; then officers of DRI laid a picket (*NAKA*) at Miran Kot Chowk, Ajnala Road, Amritsar; at about 12:30 after midnight on 23.3.2008, one Indica car having M-Grey colour bearing registration No.PB-08-BB-7311 was seen coming from Amritsar City side and going towards Rajasansi Airport, Amritsar; that it was accordingly intercepted and on being inquired, the person sitting in the car disclosed his name as Parshotam Lal Sondhi, resident of 876, Arjun Nagar Ladowali Road, Jalandhar; the officers of DRI questioned Parshotam Lal Sondhi and then informed him that they wanted to carry out the search and he had a right to be searched before a Gazette officer or a Magistrate; Parshotam Lal Sondhi opted to get the search conducted before a Gazetted Officer; since Parshotam Lal Sondhi requested that his personal search and that of the vehicle be carried out at a safer place as he apprehended risk to his life, therefore, Parshotam Lal Sondhi and the Indica car were taken to DRI Office situated at M-1/C, Green Avenue, Amritsar; the personal search of Parshotam Lal Sondhi in presence of Sh.Ramesh Sharma, Senior Intelligence Officer, DRI, Amritsar, Gazetted Officer and independent panchas did not result in recovery of any incriminating

article, though a mobile phone make Motorola was recovered from him; thereafter the car in which Parshotam Lal Sondhi was travelling was searched; a registration certificate of the said car, which was in the name of Parshotam Lal Sondhi was recovered and was taken into possession. A blue suitcase make VERAGE and a plastic blanket cover having writing EXCELL Korea ALL CREEL BLANKET SIZE 220 x 240 cms. were found lying on the rear seat of the car; on being opened they were found to be packed with ladies suits and each suite was packed individually in a transparent polythene bag; the total number of such unstitched ladies suits recovered from the suitcase came to be thirty three and unstitched ladies suits recovered from the plastic blanket was thirteen; on opening the packing of 46 suits each one of those was found to contain a packet wrapped in a carbon paper of Kores Brand concealed within the folds of packed suits; 33 such packets were recovered from the 33 suits contained in the blue coloured suitcase, were given Serial No 1 to 33, whereas 13 packets recovered from 13 suits packed in the plastic blanket cover were given Serial No.34 to 46; that all 46 packets were weighed and the total weight came out to 23.280 kgs.; that the carbon paper was removed from each such packet one by one and a transparent heat sealed polythene bag was recovered having marking as "Food Saver"; the 46 recovered packets were found to contain off-white/brownish powder/granules; such bags were opened and the powder gave a pungent smell.

The Investigating Officer took a small quantity out of each of 46 packets testing the same with Drug Testing Kit, which gave positive indication for presence of heroin. The total net weight of heroin in 46 packets was found to be 22.250 kgs. Two representative samples of 5 gms. each were drawn from each of 46 packets and placed in small transparent polythene press lock envelopes marked as 1A, 1B, 2A, 2B, 3A, 3B to 46A and 46 B. Each press lock polythene envelope was then placed inside separate white envelopes, which were again marked as 1A, 1B, 2A, 2B, 3A, 3B to 46A and 46B corresponding to the mother packet from which those were drawn. In all 92 samples had been drawn. Those were duly sealed, placed in the cotton cloth bags and thereafter stitched and sealed with the seal of DRI. The packets were placed in a steel trunk, which was locked and then wrapped with the cloth and then duly sealed. The packing material along with 46 ladies suits were placed in suitcase of blue colour, which was locked and sealed. The value of the recovered heroin was calculated to be Rs.1,11,25,000/- in Indian market @ Rs.5 lacs per kg. and in international market, it was valued around 22 crores. The Indica car was also taken into possession since it was being used for transportation of narcotic and drugs. The mobile phone of Parshotam Lal Sondhi was taken into possession. The site plan of the place of interception was prepared. The statement of Parshotam Lal Sondhi was recorded in which he admitted mode and factum of recovery stating that heroin had been

given to him by Surinder Singh @ Bittu Atwal son of Baldev Singh, resident of village Sammipur, District Jalandhar for taking the same to Taxi Stand at Rajasansi International Airport, Amritsar for delivering the same to a person about whom necessary directions were to be conveyed to Parshotam Lal Sondhi on his phone. Purshotam Lal Sondhi was to receive Rs.10,000/- per kilogram. Parshotam Lal Sondhi was arrested in this case after adopting due procedure. Parshotam Lal Sondhi along with the case property and representative samples were produced before JMIC, Amritsar (Duty), who remanded him to judicial custody. The case property was deposited with Customs House Malkhana, Amritsar.

As a follow up action, residential house of Parshotam Lal Sondhi bearing No.876, Arjun Nagar, Jalandhar was searched on 18.4.2008 but nothing incriminating was recovered. The house of Surinder Singh alias Bittu Atwal at village Sammipur, Tehsil and District Jalandhar was also raided by officer s of DRI on 23.3.2008, during the course of which from one cup board of Surinder Singh, 10 plastic polythene rolls with marking 'Foodsaver' on one side and date, contents, Patent Canada, 1, 315, 746 Made in USA and some inscription in foreign language on the other sides were recovered. Some small press lock polythene pouches 38 Nos., some plastic press lock pouches of bigger size in a card board bow with the marking GLAD 100 bags Zipper sand-wich Made in Thailand 97 Nos. & 28 self adhesive polythene bags of bigger size etc.

besides Indian currency of Rs.1,40,000/-; U.S. Dollars 1057 and other foreign currency were recovered from box of the bed lying there. Several other articles had been recovered and taken into possession. The case property was then produced before Chief Judicial Magistrate, Amritsar on 31.3.2008 and then deposited in Malkhana, Customs House, Amritsar on that very day.

As a follow up action, search of M/s B.S. Athwal Agri Farm of Surinder Singh @ Bittu Atwal at VPO Sammipur, Lambra, District Jalandhar was conducted by officers of DRI on 23.3.2008 but nothing incriminating was recovered therefrom. Notice was sent to Surinder Singh @ Bittu Atwal for his appearance in DRI Office, Amritsar but he did not come. Despite notices being issued to him time and again, he did not put in appearance. He had moved an application in the Court for grant of pre-arrest bail, which was dismissed on 24.4.2008 by Special Judge, Amritsar. He had moved a similar application in this Court, which was also dismissed on 23.5.2008. The representative samples had been sent to CRCL, New Delhi and as per its report received from Chemical Examiner, Central Revenue Central Laboratory, New Delhi, those samples had tested positive for Diacetylmorphine (Heroin). The total quantity of heroin based on purity percentage comes to 6.926 kgs. amounting to commercial quantity. Surinder Singh @ Bittu Atwal was arrested in this case. As he had surrendered himself before Chief Judicial Magistrate, Amritsar on 2.1.2009, he was sent to judicial custody.

However, his custody was obtained by DRI, Amritsar. He suffered statements before officers of DRI in which he admitted that he was engaged in illegal trafficking of heroin seized by DRI on 23.3.2008 and that packing of heroin was done by him and Parshotam Lal Sondhi at his farm house in the village and money was to be equally divided between two of them.

A complaint had been filed by DRI initially against Parshotam Lal Sondhi and he was charge-sheeted for offence under Sections 21, 23 and 60 of NDPS Act, to which he pleaded not guilty. However, after arrest of accused Surinder Singh @ Bittu Atwal, supplementary (amended complaint) was filed and Parshotam Lal Sondhi as well as Surinder Singh @ Bittu Atwal, accused were charge-sheeted for the offences under Sections 21, 23, 60, 29, 25 of NDPS Act, to which, they pleaded not guilty and claimed trial. The case was then fixed for evidence of the prosecution.

During the course of its evidence, the prosecution examined as many as five witnesses i.e. PW1 HC Swaran Singh, PW2 Sh.Rakesh Sarawat, Inspector Customs Malkhana, PW3 Sh.R.K. Saini, Intelligence Officer, DRI, PW4 Sh.RP Singh, Inspector Customs and Central Excise, CCU, Chandigarh and PW5 Sh.Ramesh Sharma, Senior Intelligence Officer, DRI, Amritsar.

Subsequently, on an application for additional evidence filed on behalf of the complainant, which was allowed, the complainant examined Dalbir Singh, Warder, Central Jail, Amritsar

as PW6.

With that the prosecution evidence stood closed.

Statements of accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against such accused were put to them but they denied the allegations contending that they were innocent and had been falsely involved in this case.

Further accused Parshotam Lal Sondhi took up a plea, which is as under:

“I am innocent and falsely implicated in the present case. I am a victim of grave persecution and harassment being meted out to me by apparently unscrupulous litigants in collusion as well as in conspiracy with certain influential vested interests who have completely unleashed in rein of terror by blatantly subverting the process of law. I was victim of political high handedness. I was Vice President of All India Youth Akali Dal Badal. I am also politically activated person in the State of Punjab and I represent SC/ST of the State. I used to agitate against the congress Govt. and due to this reason I was picked up by the employees of DRI, Jalandhar on 23.3.2008 at about 9/9:30 p.m. from Jalandhar in the presence of Iqbal Masih, Raj Kumar, Satpal Sahota and Smt.Mona Gill. DRI officials are in civil dress and they took me at DRI Office, Amritsar at Green Avenue. I was brutally tortured by DRI Officials. On the next day, counsel for DRI Shri PL

Bindra came in the office of DRI and his presence on his dictation, my confession was recorded by torturing me, which I later on retracted by moving an application before the court of Shri RS Rai, Addl. Sessions Judge, Amritsar. I do not know Surinder Singh @ Bittu Atwal before filing of this case and I have no concern with him.”

Further accused Surinder Singh @ Bittu Atwal took up a plea, which is as under:

“I am innocent and falsely implicated in the present case. I have nothing to do with the present case. Nothing was recovered from me or at my instance. I am an agriculturist by profession and I am also partner in Akal Finance Company. I came to know that DRI officials have visited my house on 23.3.2008 and got few blank papers signed from my wife. They also threatened and pressurized her to give a statement in her handwriting which was according to their wishes and pleasure. She was feeling helpless as they were using filthy languages and she gave statement to save me and our family members. Officers of DRI also took some Indian currency as well as foreign currency from my house which were given to me by my relatives outside India. They took my passport, my election ID card, passbook, bank statement and cheque books of various banks. They also took my marriage certificate. I surrendered in the court on 2.1.2009. They took me to their office in Amritsar where they tortured me and pressurized me

for three days. I was so scared that whatever and however they asked me to write, I wrote. Neither had they given me any statement nor I was allowed to read it. They also took my signatures on some blank and printed papers, which were never given to me to read. They also threatened me that if he did not write according to them, they will implicate my family members. They had also beaten me in their office from 3.1.2009 to 5.1.2009. I do not know any Parshotam Lal Sondhi. I have heard his name for the first time from officers of DRI. They threatened me not to disclose their misdeeds and indecent behavior to anyone otherwise, me and my whole family will be falsely implicated in this case. I cannot read, write or understand English. I was so scared that I could not talk to anybody about that but later on I gathered my courage and gave my retraction through Jail Superintendent to Court of Shri PP Singh, Addl. Sessions Judge, Amritsar which is mark DX.”

In defence evidence, accused Parshotam Lal Sondhi examined Smt.Sukhraj Kaur, Clerk, Office of District Election Officer, Amritsar as DW1, Sh.Alok Kumar Kaul, Senior SDE as DW2, Sh.Chranjit Lal, Tax Assistant as DW3, Smt.Sunita @ Mona as DW8, Sh.Parminder Singh as DW9 and Ashwani Kumar as DW10.

Whereas in his defence evidence, accused Surinder Singh @ Bittu Atwal examined Dr.Gurnam Singh as DW4, Dr.Manjit Singh Rataul as DW5, Sh.Balbir Singh, Deputy

Superintendent, Central Jail, Amritsar as DW6 and Smt.Palwinder Kaur as DW7.

The trial Court had formulated the following points for determination:

1. Whether recovery of Heroin was made in the manner as alleged by the complainant?
2. Whether statements under Section 67 of NDPS Act made by two accused were voluntarily made and are admissible in evidence?
3. Whether statements were retracted and what is the effect thereof?
4. Whether there was conspiracy between the two accused and complainant has succeeded in proving conscious possession of heroin by the two accused?

After hearing arguments, learned trial Court convicted and sentenced the accused as mentioned supra, which left accused them aggrieved and they have filed the present appeals praying that the same be accepted, the impugned judgment of their conviction and sentence be set aside and they be acquitted of the charge framed against them.

We have heard learned counsel for the parties besides going through the record and we do not find any illegality or infirmity with the judgment as regards the conviction of both the accused. The judgment is well reasoned one. The trial Court in light

of the facts and circumstances of the case on appreciation of evidence adduced by the complainant taking into view the stand taken by the accused in the defence and evidence adduced by them in that regard had come to the conclusion that both the accused connived with each other in furtherance of their common mind and common object and hatched a criminal conspiracy to bring 22.250 kgs. heroin from Jalandhar to Amritsar. We do not see any reason to disagree with such findings recorded by the trial Court.

Learned counsel for the appellants have not been able to put forward any plausible or convincing reason, which might have prompted us to find any fault with the inference of conviction recorded by the trial Court and to interfere therewith. As such, the judgment of conviction against both the appellants/accused is upheld.

As far as the sentence part is concerned, as per the counsel for the appellants both the appellants are aged around 50 years; they are married having children; wife of Surinder Singh @ Bittu Atwal is stated to be chronic patient of Asthama.

No previous conviction against both the accused is alleged or proved. Rather it is stated by counsel for the appellants that they are not involved in any other criminal case much less under NDPS Act.

Keeping in view such contentions put forward by learned counsel for the appellants, we are of the view that the ends

of justice shall be adequately met, if sentence of 12 years of rigorous imprisonment of both the accused is reduced to rigorous imprisonment for 10 years, whereas keeping the fine part intact.

Ordered accordingly.

With the above modification, the appeals stand partly allowed.

Necessary information be sent to the quarter concerned.

30.11.2018
Brij

(A.B.CHAUDHARI)
JUDGE

(H.S.MADAAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No