

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

CRR No.3584 of 2016

Date of Decision : 24.04.2018

Sukhwinder Singh @ Sukhi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. A.P.S. Deol, Senior Advocate assisted by
Mr. Arshdeep S. Brar, Advocate
for the petitioner.

Ms. Rajni Gupta, Sr. Deputy Advocate General, Punjab
for the respondent-State.

SUDIP AHLUWALIA, J. (ORAL)

On the previous date time had been sought for on behalf of the respondent-State to satisfy this Court that broken pods of the item recovered are also liable to be treated as “plant” within the meaning of Clause (xvii) of Section 2 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “the NDPS Act”) but today Ld. Counsel for the State in all fairness submits that such items undoubtedly amounts to “poppy straw” in terms of Clause (xviii).

2. This Court is also in agreement with such interpretation because a plain reading of both the Clauses goes to indicate that broken pods which are no longer attached to anything standing or

implanted in the earth, by no stretch of logic treated as a part of the “plant”.

3. To that extent there is merit in the contention raised on behalf of the petitioner.

4. Consequently, the impugned order passed by the Ld. Trial Court would appear to be incorrect, since the contraband recovered would fall under the definition of “poppy straw” and not “opium poppy”. Thus, the charge framed under Section 18 of the NDPS Act is liable to be modified to one under Section 15 (b) of the NDPS Act.

5. The Ld. Trial Court is directed to amend the charge accordingly.

6. It is submitted by Ld. Counsel for the petitioner that in spite of such amendment of charge, his client is not inclined to re-examine the prosecution witnesses already examined, and that after such amendment, rest of the trial may be completed from the very stage, which it has reached up to now.

7. Ordered accordingly.

8. Disposed off.

April 24, 2018

Dpr

**(SUDIP AHLUWALIA)
JUDGE**

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No