

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRA-S-3411-SB of 2017

Date of Decision: August 22, 2019

Lakhwinder Singh @ Lakhi and anr.Appellant

Vs.

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU.

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Present:- Mr. Ramandeep Singh, Advocate for appellant No.1.
Mr. Tarunveer Vashisht, Advocate for appellant No.2
Mr. Saurav Khurana, DAG, Punjab.

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MAHABIR SINGH SINDHU, J.

Present appeal has been preferred by both the appellants against the impugned judgment and order dated 28.07.2017 passed by Learned Judge, Special Court, Patiala, (for short 'Special Court'), whereby they have been convicted and sentenced under Section 22 (c) of Narcotics Drugs and Psychotropic Act, 1985, for short 'Act' to undergo rigorous imprisonment for a period of 10 years and to pay a fine of Rs.1,00,000/- (one lac) each with a default clause to further undergo rigorous imprisonment for 2 years.

2. Brief facts of the case are that, on 05.11.2013, police party headed by ASI Sahib Singh (PW5) along with HC Paramjit Singh (PW7), C.Amandeep Singh, and PHC Naresh Kumar were on patrolling duty in a private vehicle at Ghaggar bridge in the area of Village Badshahpur, then one Pala Singh son of Phool Singh came there. When PW5 was talking with Pala Singh, two young persons aged about 26/27 years, wheatish colour, slim physique came on motorcycle bearing Registration No.PB-13-3966. On seeing the

police party, the driver of the Motorcycle tried to sped away, but both were apprehended by PW5 with the help of fellow police officials. Upon inquiry, the driver of motorcycle disclosed his name as Lakhwinder Singh @ Lakhi son of Mohinder Singh, resident of Naraingarh, PS Bhawanigarh (appellant No.1); whereas the pillion rider disclosed his name as Harpreet Singh son of Balbir Singh, resident of Village Ramgarh, PS Bhawanigarh (appellant No.2). PW5 disclosed his identity as ASI Sahib Singh and informed both of them that he intended to conduct their search along with motorcycle as they were suspected to be carrying some narcotic substance. He further informed them regarding their right to be searched in the presence of some Gazetted Officer or Magistrate, who could be called at the spot, but both of them reposed confidence in PW5. Consent Memo (Ex.P4) was prepared which was duly signed by both the appellants as well as witnesses, namely, Pala Singh and HC Paramjit Singh, 1697 (PW7). Consequent upon search of both the appellants, two polythene bags (one each) containing white coloured intoxicant tablets i.e. 1100 from each of them were recovered from right pocket(s) of their respective trousers. Four samples of 10 tablets each (two from appellant No.1 and two from appellant No.2) were drawn separately as MO1 and MO2. All the samples along with the remaining bulk parcels were sealed by the investigating officer with seal 'SS'. Specimen seal was prepared and contraband were taken into possession vide separate recovery memos Ex.P5. Ruqa (Ex.P6) was prepared and dispatched to Police Station for

registration of an FIR and on the basis of which formal FIR Ex.P7 was registered. From the physical search (jamatalashi) of both the appellants, currency notes of Rs.50/- from each as well as two mobile phones (one from each) were recovered and taken into possession vide separate memos (Ex.P10). Both the appellants along with the contraband were produced before officiating SHO-ASI Kehar Singh, (PW1) who after verification of the facts, sealed the samples as well as bulk parcel with his seal impression as ‘KS’.

3. On next day i.e. 06.11.2013, the case property along with accused were produced before learned Judicial Magistrate Ist Class, Samana, for short ‘JMIC’, who endorsed the samples as well as bulk parcels and after drawing two representative samples from both the bulk, sealed the contraband with her seal bearing impression as ‘SC’ and appellants were remanded to police custody till 08.11.2013. Forensic Science Laboratory (for short ‘FSL’) report of chemical examination (Ex.P16) was received with the following result:-

<i>“Ingredient Present</i>	<i>Average quantity of ingredient in the parcel</i>	
	<i>Parcel No.1</i>	<i>Parcel No.2</i>
<i>Alprazolam</i>	<i>0.45 mg/tablet</i>	<i>0.46 mg/tablet”</i>

4. After completion of usual investigation report under Section 173 Code of Criminal Procedure, 1973 (for short ‘Cr.P.C.’) was submitted before the Court concerned; and in terms of Section 207 Cr.P.C., copy thereof was supplied to both the appellants. On the basis of material available on record, Special Court, charge-

sheeted both the appellants under Section 22 of the Act to which they pleaded not guilty and claimed trial.

5. In order to prove its case prosecution examined seven prosecution witnesses which are as under:-

PW1-ASI Kehar Singh,
 PW2-Constable Balwinder Singh, No.950
 PW3-HC Paramjit Singh,
 PW4-Kuilwant Rai, Jr. Assistant, Office of DTO, Sangrur.
 PW5-ASI Sahib Singh,
 PW6-HC Jagtara Ram, No.512; and
 PW 7-HC Paramjit Singh, No.1697

Prosecution also produced the documentary evidence, which is as under:

<i>“Ex.P1</i>	<i>Sample seal</i>
<i>Ex.P2</i>	<i>Verification report of ownership of motor cycle</i>
<i>Ex.P3</i>	<i>Copy of RC</i>
<i>Ex.P4</i>	<i>Consent Memo</i>
<i>Ex.P5</i>	<i>Recovery memo of intoxicant tablets</i>
<i>Ex.P6</i>	<i>Ruqa</i>
<i>Ex.P7</i>	<i>FIR</i>
<i>Ex.P8</i>	<i>Endorsement of FIR</i>
<i>Ex.P9</i>	<i>Site plan</i>
<i>Ex.P10</i>	<i>Personal search memo of appellants.</i>
<i>Ex.P11</i>	<i>Grounds of arrest-cum-intimation memo</i>
<i>Ex.P12</i>	<i>Report u/s 57 of the Act.</i>
<i>Ex.P13</i>	<i>Inventory report</i>
<i>Ex.P14</i>	<i>Request for police remand and order of learned Magistrate</i>
<i>Ex.P15</i>	<i>Order passed by Learned Magistrate on inventory report.</i>
<i>Ex.P16</i>	<i>Report of Chemical Examiner.</i>

Ex.PW2/A Affidavit of C.Balwinder Singh who brought the samples to the office of Chemical Examiner.

Ex.PW3/A Affidavit of MHC Paramjit Singh regarding handling of the case property.

MO1 MO2 Samples drawn at the time of arrest of accused.

MO3 MO4 Representative samples drawn by learned Magistrate

MO5 MO6 Bulk parcels”

6. The entire incriminating material was put to the appellants under Section 313 Cr.P.C. but they claimed innocence and stated that both the appellants were picked up by the police on 4.11.2013 on the allegation of some theft and the present case has been falsely planted upon them.

In support of their defence, appellants produced three witnesses, namely, Gurpiar, DW1, Jagdeep Singh, DW2, Hakam Singh, DW3.

7. After hearing both sides and taking into consideration the entire material available on record, Special Court found both the appellants guilty under Section 22 of the Act while concluding as under:-

“In view of the discussions hereinabove, the accused are hereby found guilty of having in their possession total 2200 intoxicant tablets (1100 tablets each) containing Alprazolam with an average weight of 245/246 mg, which is punishable under Section 22 of the Act and they are convicted accordingly.”

On the basis of the above conviction, both the appellants were awarded the sentenced under Section 22 (c) of the Act, to undergo

rigorous imprisonment for 10 years and to pay a fine of Rs.1,00,000/- (one lac) each with a default clause to further undergo rigorous imprisonment for 2 years. Learned Special Court also ordered for initiation of confiscation proceedings against owner of the Motorcycle No. PB-13Z-3966, namely, Mohinder Singh.

8. It is contended on behalf of the appellants that learned Special Court has committed grave error of law while passing the impugned judgment of conviction as well as order of sentence and which are not legally sustainable, due to the following reasons:-

- i) Since the recovery is/are alleged to have been effected from personal search of the appellants, therefore, there is non-compliance of Section 50 of the Act while issuing a joint communication at the time of search;
- ii) As per the case of the prosecution itself, independent witness, namely, Pala Singh, was present at the time of alleged recovery, but he has not been examined, thus an adverse inference ought to have been drawn by learned Special Court;
- iii) There is material contradiction in the testimonies of the prosecution witnesses, therefore, the recovery of alleged contraband has become doubtful.

On the other hand, learned State counsel has vehemently opposed the contentions raised on behalf of the appellants and submitted that charge in this case is duly proved by the prosecution and mere issuance of a joint communication to both the appellants at the time of search, would not cause any prejudice to them. So far as

non-examination of independent witness is concerned, learned State counsel submitted that he was won over by the appellants, therefore, has rightly been given up during trial.

9. Heard both sides and perused the paper book.

10. PW5, SI Sahib Singh, who is stated to have apprehended both the appellants on the spot, conducted their personal search, recovered 1100 tablets of Alprazolam from each of them has repeated his version as given in Ruqa Ex.P6. He deposed that consent memo (Ex.P4) was reduced into writing, which was signed by both the appellants and witnessed by Pala Singh as well as HC Paramjit Singh (PW7). Further stated that he conducted the search of appellant No.1-Lakhwinder Singh and recovered 1100 tablets from the right pocket of his trouser wrapped in a polythene bag. Two samples of 10-10 tablets each were separated and the remaining tablets were counted as 1080. Separate parcels of both the samples as well as bulk were prepared and sealed with the impression as 'SS'. Thereafter, search of appellant No.2- Harpreet Singh was conducted and similarly from right pocket of his trouser, 1100 tablets wrapped in a polythene bag were recovered. Two samples of 10-10 tablets each were separated, and remaining were counted as 1080. Separate parcels of both the samples and bulk was prepared and sealed with impression as 'SS'. Sample seal (Ex.P1) was prepared and after its use, was handed over to HC Paramjit Singh (PW7). CFSL form was also prepared at the spot and the incriminating articles, along with motorcycle was taken into possession vide

recovery memo Ex.P5, duly signed by Pala Singh and HC Paramjit Singh. Thereafter, ruqa Ex.P6 was sent to Police Station through PHG Rajesh Kumar, No.18026 and on the basis thereof, formal FIR was registered by ASI Mahadev. Endorsement is Ex.P8. Rough site plan of the place of occurrence was prepared as Ex.P9. From personal search of accused Lakhwinder Singh, currency note of Rs.50 along with one mobile phone was recovered. Similarly from personal search of appellant No.2, currency note of Rs.50 along with one mobile phone was recovered and the same were taken into possession vide recovery memo Ex.P10. Both the appellants were arrested and intimation was sent to Sarpanch of the Village on his mobile phone. Report under Section 57 of the Act was prepared and statements of witnesses were also recorded on the spot. Thereafter, both the appellants along with case property, specimen seals along with other articles were produced before Officiating SHO ASI Kehar Singh, PW1, who verified the facts of the case and put his seal 'KS'. Case property was deposited with MHC Paramjit Singh.

On next day, i.e. 06.11.2013, both the appellants along with case property as well as inventory report were produced before learned JMJC, Samana. The case property was seen and representative samples (MO3 and MO4) of 10 tablets from each of the bulk parcels (MO5 and MO6) were drawn by learned Magistrate and the representative samples as well as remaining bulk parcels were sealed with her seal impression as 'SC'. PW5 further stated that learned Magistrate directed to deposit the case property in

Judicial Malkhana, but since the order was received late, therefore, the same could not be deposited in Judicial Malkhana on the same day. Consequently, case property was re-deposited with MHC and thereafter, on 08.11.2013, HC Jagtar Singh deposited the same with Judicial Malkhana.

During cross-examination, PW5 stated that he does not remember whether any word was written on the tablets or not? He further stated that he did not weigh the contraband. Also stated that no Drug Inspector was called for confirmation of the tablets whether these were intoxicants or not?

PW1 ASI Kehar Singh deposed that on 05.11.2013, he was working as officiating SHO at PS Ghagga and on that day, PW5 produced before him both the appellants along with case property i.e. four sample parcels each containing 10 intoxicating tablets duly sealed with impression as 'SS' and two bulk parcel containing 1080 tablets each, specimen seals and articles recovered during physical search (jamatalahi). He verified the facts of the case and put his own seal on the parcels as well as samples with the impression 'KS' and on his directions, PW5 deposited the case property with MHC.

During cross-examination, this witness candidly stated that PW5 did not disclose about the name of the tablets produced before him.

PW3 Paramjit Singh, MHC deposed that contraband along with the samples duly sealed with impression SS/KS along with Motorcycle No. PB-13-Z-3966 were deposited with him by PW4 on

05.11.2013 and entry in this regard was made in Register No.19. On 06.11.2013, the above parcels along with the contraband were handed over to PW5 to produce the same before the Court and the same were produced before Ms.Shampy Chaudhary, Learned JMJC, Samana, which were duly seen by her and representative samples were drawn from both the case properties and were resealed with impression 'SC'. Further deposed that learned JMJC directed to deposit the contraband with the Judicial Malkaha at Patiala, but due to delay and odd hours, the same could not be deposited, hence the entire contraband was re-deposited with the police malkhana. On 08.11.2013, the above contraband was entrusted to HC Jagtara Ram No.652, for depositing the same with Judicial Malkhana, Patiala and he deposited the same and a receipt to that effect was handed over to him. On the same day i.e. 08.11.2013, two parcels sealed with impression SS/KS, along with sample seal and CFSL form were handed over to C.Balwinder Singh No. 950 for depositing the same with FSL, Mohali which was accordingly deposited and a receipt in this regard was handed over to him (PW3). He also deposed that contraband remained in the safe custody with him.

During cross-examination, this witness stated that on 05.11.2013 at about 9.20 pm, case property along with six parcels were deposited with him and DDR entry in this regard was made, but he neither remember its number; nor the same is mentioned in his affidavit Ex.PW3/A. He further stated that he cannot tell the shape and metal of the seals of IO as well as of SHO. He again stated that

he does not remember the time when case property was re-deposited with him on 06.11.2013.

PW2 C.Balwinder Singh, No.950, deposed that he deposited the samples with the FSL, Mohali on 08.11.2013 along with the samples seals and CFSL form and a receipt in this regard was handed over to MHC Paramjit Singh, PW3.

PW4 Kulwant Rai, has produced the record relating to the ownership of motorcycle bearing No.PB-13-Z-3966, which is registered in the name of Mohinder Singh son of Jeet Singh, resident of Village Naryain Garh Tehsil and District Sangrur.

PW6 HC Jagtara Ram, No. 512/Sangrur, deposed that he deposited the sample parcels along with the parcels of case property with the Judicial Malkhana, Patiala, on 08.11.2013 and a receipt to that effect was handed over to MHC Paramjit Singh, on the same day.

PW7 HC Paramjit Singh, No. 1697, during cross-examination, inter-alia stated that *Investigating Officer disclosed to the accused persons that they could be produced before the DSP at his office at Patran and he (IO) offered them that they could be searched in presence of Gazetted Officer only. He also disclosed that except gazetted officer, they could be searched in the presence of Magistrate. Investigating Officer told them the definition of gazetted officer is GO rank but he did not remember whether he disclosed the definition of Magistrate to the accused persons or not?* He further candidly stated that “*consent memos were prepared jointly*

by the investigating officer.” He again stated that “I returned the seal of Investigating Officer to him on the next day.” He further stated that “Ruqa carrier PHG Rajesh Kumar left the spot in my presence at about 5.50 PM and returned at 8.00 pm. Before Ruqa carrier left the place, the documents i.e. recovery memos were prepared at the spot. Except these, no other documents were prepared. After arrival of ruqa carrier at the spot, documents i.e. site plan, arrest-cum-intimation memo, CFSL forms, statements of witnesses including me and HC Paramjit Singh, private witness Pala Singh were prepared at the spot. Except these, no other documents were prepared.”

11. Perusal of consent Memo Ex.P4 reveals that PW5 after giving his introduction to both the appellants informed them that he was suspecting that they were carrying some narcotic substance, therefore, he wanted to conduct their search as well as of Motorcycle. He also apprised both the appellants about their legal right to get the search conducted in the presence of some Gazetted Officer or a Magistrate, who can be called at the spot. Both the appellants after pondering for a while reposed confidence in him. Consent memo Ex.P4 was reduced into writing, which was duly signed by both the appellants as well as independent witness Pala Singh and HC Paramjit Singh, PW7, and the unofficial English translation of the same, reads as under:-

“Before following witnesses, through this writing, gave my identification to accused Lakhwinder Singh @ Lakhi, son of Mohinder Singh, caste Majhbi resident of

Naraingarh and Harpreet Singh son of Balwinder Singh, caste Majhbi, resident of Ramgarh, Police Station Bhawanigarh, District Sangrur, that I am ASI Sahib Singh, Incharge Police Post, Bhadshahpur. I suspected that both of you were carrying some narcotic substance, therefore, wanted to search both of you as well as your motorcycle-Platina, No.PB-13-3966. You have a legal right if you want to be searched before a Magistrate or Gazetted Officer, he can be called at the spot. After thinking for sometime both the accused i.e. Lakhwinder Singh and Harpreet Singh gave their consent that they have faith in him and he can conduct their search as well as of motorcycle. We do not want to make any Gazetted Officer or Magistrate to be a witness against us. On this, the above writing was read over to the accused in the presence of witnesses on which they i.e.Lakhwinder Singh and Harpreet Singh signed the same after verifying and reading it as correct.

*Sd/-Accused
Lakhwinder Singh @ Lakhi,
Above*

*Sd/-Accused
Harpreet Singh,
above*

Witnesses:

1. Pala Singh son of Phul Singh, caste Bajigar, R/o Sadhmajra.

2. HC Paramjit Singh, 1697, PP Badshahpur,

*Sd.-Sahib Singh, ASI,
I/C, Badshahpur,
Dated: 5.11.2013"*

12. As per the prosecution case itself, after preparing the above consent memo, PW5 conducted the personal search of both the appellants as well as of their motorcycle and 1100 tablets from each of them are stated to have been recovered. Apart from the above contraband, two currency notes of Rs.50/- along with two mobile phones i.e. one each from them, were also recovered and

their joint personal search memo regarding currency notes as well as mobile phone is Ex.P10. Consent memo Ex.P4 clearly reveals that instead of giving separate offer, a joint communication has been issued to both the appellants and thus, both the appellants have been deprived of their valuable rights and the safeguards mandated by the provisions of Section 50 of the Act. Hon'ble Supreme Court in the case of **Vijaysinh Chandubhai Jadeja Vs. State of Gujarat**, (2011) 1 SCC 609, has held that provisions of Section 50 of the Act are mandatory in nature and are to be strictly complied with, and relevant para 29, 31 and 32 reads as under:-

“29. In view of the foregoing discussion, we are of the firm opinion that the object with which the right under [Section 50\(1\)](#) of the NDPS Act, by way of a safeguard, has been conferred on the suspect, viz. to check the misuse of power, to avoid harm to innocent persons and to minimise the allegations of planting or foisting of false cases by the law enforcement agencies, it would be imperative on the part of the empowered officer to apprise the person intended to be searched of his right to be searched before a gazetted officer or a Magistrate. We have no hesitation in holding that insofar as the obligation of the authorised officer under sub-section (1) of [Section 50](#) of the NDPS Act is concerned, it is mandatory and requires strict compliance. Failure to comply with the provision would render the recovery of the illicit article suspect and vitiate the conviction if the same is recorded only on

the basis of the recovery of the illicit article from the person of the accused during such search. Thereafter, the suspect may or may not choose to exercise the right provided to him under the said provision.

30. xxx xxx xxx
31. *We are of the opinion that the concept of "substantial compliance" with the requirement of [Section 50](#) of the NDPS Act introduced and read into the mandate of the said Section in Joseph Fernandez and Prabha Shankar Dubey is neither borne out from the language of sub-section (1) of [Section 50](#) nor it is in consonance with the dictum laid down in Baldev Singh case. Needless to add that the question whether or not the procedure prescribed has been followed and the requirement of [Section 50](#) had been met, is a matter of trial. It would neither be possible nor feasible to lay down any absolute formula in that behalf.*
32. *We also feel that though [Section 50](#) gives an option to the empowered officer to take such person (suspect) either before the nearest gazetted officer or the Magistrate but in order to impart authenticity, transparency and creditworthiness to the entire proceedings, in the first instance, an endeavour should be to produce the suspect before the nearest Magistrate, who enjoys more confidence of the common man compared to any other officer. It would not only add legitimacy to the search proceedings, it may verily strengthen the prosecution as well."*

Still further Hon'ble Supreme Court in **State of Rajasthan Vs. Parmanand and another**, (2014) 4 SCC 345, has held that joint offer for search of the suspect is not permissible in law, and the relevant para No.17 of the judgment reads as under:-

*“17. In our opinion, a joint communication of the right available under [Section 50\(1\)](#) of the NDPS Act to the accused would frustrate the very purport of [Section 50](#). Communication of the said right to the person who is about to be searched is not an empty formality. It has a purpose. Most of the offences under the [NDPS Act](#) carry stringent punishment and, therefore, the prescribed procedure has to be meticulously followed. These are minimum safeguards available to an accused against the possibility of false involvement. The communication of this right has to be clear, unambiguous and individual. The accused must be made aware of the existence of such a right. This right would be of little significance if the beneficiary thereof is not able to exercise it for want of knowledge about its existence. A joint communication of the right may not be clear or unequivocal. It may create confusion. It may result in diluting the right. We are, therefore, of the view that the accused must be individually informed that under [Section 50\(1\)](#) of the NDPS Act, he has a right to be searched before the nearest gazetted officer or before the nearest Magistrate. Similar view taken by the Punjab and Haryana High Court in *Paramjit Singh* and the Bombay High Court in *Dharamveer Lekhram Sharma* meets with our approval.”*

13. During scrutiny of the record of the case, this Court has come across that learned Special Court has also fallen into the similar trap while framing the joint charges against the appellants

instead of charge-sheeting them individually, as is clear from the charge-sheet dated 14.10.2014, which reads as under:-

“That on 5.11.2013, at about 5.50 p.m., in the area of Badshahpur bridge, Ghaggar river, you both were found in conscious possession of 2200 intoxicant tablets i.e. 1100 tablets each containing salt Alprozolam, being carried on motor cycle bearing no. PB-13-3966 without any permit or licence and you both thereby committed an offence punishable under Section 22 of the Narcotic Drugs & Psychotropic Substances Act and within my cognizance.

And I hereby direct that you both be tried by this Court on the above said charge.

Sd/-JSC/14.10.2014”

Since the offence under NDPS Act entails serious consequences, therefore, learned Special Court was expected to be more meticulous while framing the charges against the appellants instead of fastening them with joint charge-sheet, in routine manner.

As discussed above, testimony of PW7 HC Paramjit Singh who is stated to be the witness to the recovery has made the prosecution case absolutely doubtful. He stated that seal after use was handed over to PW5 on the next day of the occurrence and that except recovery memos no other documents were prepared on the spot till the sending of the ruqa. He has gone to the extent of deposing that CFSL form was prepared after return of the ruqa from the police station by PHG Rajesh Kumar at 8.00 pm, but a perusal of the same i.e. ruqa (Ex.P6) clearly reveals that CFSL form was prepared before sending it to the police station. PW5 deposed that

CFSL form was prepared before sending the ruqa on the spot, therefore, testimonies of both the material prosecution witnesses i.e. PW7 and PW5 are self-contradictory and make the prosecution case wholly doubtful about recovery of contraband and writing work. Even the offer was made jointly at the time of search to both the appellants as is clear from the testimony of PW7.

Independent witness Pala Singh has been given up by the prosecution without any justification merely on the allegation that he was won over by the appellants. It is not discernable that even without recording the examination -in-chief of said Pala Singh, on what basis the learned Special Court agreed with the request of the prosecution while giving up the independent witness. Therefore, on that count also, the prosecution case becomes doubtful.

14. Although learned State counsel raised a plea that recovery in this case was effected at a public place, therefore, provisions of Section 50 of the Act are not attracted, but this Court is not agreeable with this argument in view of the fact that as per prosecution case itself, the recovery of contraband was effected from personal search of both the appellants, therefore, the same is liable to be rejected.

No other point has been argued or case law cited by either of the parties.

15. In view of the facts and circumstances discussed hereinabove, this Court is fully convinced that there is non-compliance of mandatory provisions of Section 50 of the Act while

making a joint offer to both the appellants which is not permissible in view of the law laid down by Hon'ble Supreme Court in **Parmanand's** case (supra) and moreover, recovery of the alleged contraband is also found to be doubtful in view of material contradictions in the testimonies of PW5 and PW7, in this case. Therefore, this Court has no option except to allow the present appeal.

16. Resultantly, appeal is allowed. Impugned judgment of conviction and order of sentence dated 28.07.2017 passed by Learned Judge, Special Judge, Patiala, is set aside. Both the appellants are acquitted of charge under Section 22 of the Act.

Since the judgment of conviction and order of sentence dated 28.07.2017 passed by Learned Judge, Special Court, Patiala, have been set aside by this Court and appellants are acquitted of the charge(s), therefore, they be released from the custody forthwith, if not required in any other case.

August 22, 2019
sanjay

(MAHABIR SINGH SINDHU)
JUDGE

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