

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

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**CRM-A-1098-2019 (O&M)
Date of Decision : 19.09.2019**

State of Haryana

... Applicant

Versus

Sukhdev Singh @ Sukha

...Respondent

**CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Ms. Tanisha Peshawaria, DAG, Haryana.

AJAY TEWARI, J.(ORAL)**CRM-19067-2019**

This is an application for condonation of delay of 104 days in filing the present appeal. Heard. In view of the reasons mentioned in the application which is supported by an affidavit, same is allowed.

2. Delay of 104 days in filing the present appeal is condoned.

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3. The State of Haryana has filed the present application under Section 378(3) Cr.P.C. for grant of leave to appeal against the judgment dated 19.07.2018 passed by the learned Addl. Sessions Judge-cum-Special Judge, Kurukshetra.

4. Vide impugned judgment, the trial Court has acquitted respondent in case FIR No. 182 dated 08.12.2016, under Sections 21A, 21B,

21C, 22A, 22B, 22C of the Narcotic Drugs and Psychotropic Substances, Act, 1985 (hereinafter referred as 'NDPS Act')

5. The brief facts of the present case are that on 07.12.2016, police received secret information that the respondent indulged in selling intoxicants medicines. On the basis of that secret information, raid was conducted. Respondent was apprehended and from his conscious possession 4400 tablets of Alprazolan and 435 tablets of Microlite containing Diphenxylate Hydrochloride were recovered. Having been sent up for trial, the Court acquitted the respondent and that is how the State has filed the present application for leave to appeal.

6. What weighed with the trial Court was the fact that both the notices under Sections 42(1) and 50 of the NDPS Act were defective. Further even on merits there was material difference in the statements of the prosecution witnesses regarding the point of time on which the notice under Section 50 of the NDPS Act was served upon the respondent. Learned Deputy Advocate General, has not been able to justify the infraction of the mandate of Sections 42(1) and Section 50 of the NDPS Act or explain the discrepancies in the statements.

7. Consequently, the application seeking leave to appeal is dismissed. Leave to appeal is declined.

(AJAY TEWARI)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

19.09.2019

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Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No