

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

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**CRM-A-1202-2019 (O&M)
Date of Decision: 06.09.2019.**

State of Haryana

....Applicant.

Versus

Sanjay

....Respondent.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Ms. Harpreet Kaur, Assistant Advocate General, Haryana
for the applicant.

Shekher Dhawan, J.

Present application under Section 378(3) of the Code of Criminal Procedure has been filed for grant of leave to file appeal against the judgment of acquittal dated 28.11.2018 passed by learned Additional Sessions Judge, Charkhi Dadri.

Learned counsel representing the applicant-State contended that it is a case of recovery of 10 grams of heroin, which is more than the 'small quantity' and the prosecution witnesses have supported the prosecution case, but still learned trial Judge acquitted the respondent-accused.

Having considered the submissions made by learned counsel for the applicant-State and appraisal of record, this Court is of the considered view that facts are not disputed that the alleged recovery was effected from the personal search of the respondent-accused as the same

heroin was in the pocket of the trouser of the respondent-accused, but still it is a case of non compliance of Section 50 of the N.D.P.S. Act, which is mandatory in nature in case of personal search and learned trial Judge has dealt the matter accordingly as per provisions of the law.

In view of the above, no ground is made out for interference with the said judgment of acquittal and to accept the application for leave to appeal against the judgment of acquittal. Otherwise also, the application for leave to appeal has been filed with delay of 90 days. In light of facts discussed above and the application suffering from delay of 90 days also, present application for leave to appeal as well as application for condonation of delay are dismissed.

(SHEKHER DHAWAN)
JUDGE

06.09.2019

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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No