

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

CRA-S-1198-SB-2005 (O&M)

Date of pronouncement: 18.08.2022

Ram Kumari

...Appellant

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR.JUSTICE H.S. MADAAN**

Present: Mr. Gagandeep Singh, Advocate/Legal Aid Counsel  
for the appellant.

Mr. Viney Phogat, Deputy Advocate General, Haryana.

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**H.S. MADAAN, J.**

1. This appeal is directed against judgment dated 21.05.2005, and order of sentence dated 23.05.2005, passed by Special Judge, Faridabad, in case FIR No.347 dated 19.12.2003, for an offence under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act'), registered with GRP, Faridabad, against the appellant, vide which she had been convicted and sentenced for the said offence.

2. Briefly stated facts of the case, as per prosecution story are that on 18.12.2003, a police party from GRP Faridabad led by SI/SHO Maya Ram [hereinafter referred to as the Investigating Officer (IO)] was present at Platform No.1 of Railway Station Faridabad in connection with patrol duty and crime detection; while the IO was talking with Balram Singh son of Kanwar Singh, remaining members of the police party

comprising EHC Vedpal, HC Ishwar Singh, Constable Suresh Kumar, Constable Krishan Kumar from Police Post GRP Delhi apprehended accused Ram Kumari, who was trying to escape from train Mangla Express 2618 UP; she had attempted to do so during the checking of train between Palwal to Hodal; the accused was produced before the IO; the IO suspected that the accused possessed a contraband, as such, he served a notice under Section 50 of the Act upon the accused, vide this notice the accused was informed of her right to get the search conducted in the presence of some Gazetted Officer or a Magistrate; the accused opted to get the search conducted in the presence of a Gazetted Police officer; therefore, Smt. Satyawati, DSP, a Gazetted Officer was summoned to the spot; Smt. Satyawati, DSP accordingly arrived there; personal search of accused was carried out, which resulted in recovery of 1kg 700 gm of charas which was tied with the body of the accused with a piece of cloth; two samples of 20 gm each were separated from the recovered charas and converted into parcels, whereas, the residue was also turned into parcel; the sample parcels and the bulk parcels were sealed by the IO with the seal having impression with 'MR'; Smt. Satyawati, DSP also affixed her seal upon all the parcels and then all the parcels were taken into police possession, vide recovery memo; accused was arrested in this case; ruqa was sent to the police station on the basis of which, formal FIR was registered against the accused; a rough site plan of place of recovery was prepared; statements of witnesses were recorded; during the course of investigation, the sample parcel was sent to FSL, Haryana, at Madhuban

and as per report received there from, it was found to be that of charas.

3. On completion of investigation and other formalities, challan against the accused was prepared and filed in the Court; on presentation of the challan, documents relied upon therein were supplied to the accused free of costs as provided under Section 207 Cr.P.C., and then finding a prima facie case, charge for an offence under Section 20 of the Act was framed against the accused, to which she pleaded not guilty and claimed trial.

4. During the course of prosecution evidence, prosecution examined as many as six witnesses i.e. PW-1 Constable Narbir Singh, PW2 Constable Raj Kumar, PW3 ASI Bijender Singh, PW4 DSP Satywati, PW5 HC Vedpal and PW6 SI Maya Ram.

With that, the prosecution evidence got concluded.

5. Statement of the accused was recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing in prosecution evidence against the accused were put to her but she denied the allegations contending that she was innocent and had been falsely implicated in this case.

The accused did not lead any evidence in defence.

6. Following point for determination was framed by the trial Court:-

*“Whether the accused Ram Kumari was found in possession of 1.700 kg charas without any permit or licence in the area of Police Station GRP Faridabad at about 10.50 am on 19.12.2003?”*

7. After hearing arguments, the trial Court convicted the accused for which she had been booked vide judgment dated 21.05.2005 and in terms of the order dated 23.05.2005 sentenced her to undergo rigorous imprisonment (RI) for a period of 10 years and to pay a fine of Rs.1 lakh; in default of payment of fine, to further undergo RI for two years.

Feeling aggrieved, she has filed the present appeal, notice of which was given to the State.

8. I have heard learned counsel for the appellant/accused, learned State counsel besides going through the record.

9. In this case, the prosecution by examining PW-4 Smt. Satyawati, DSP, PW5 HC Vedpal and PW6 SI Maya Ram have fully proved the recovery of 1 kg 700 gm of charas from possession of the accused when she was searched on 19.12.2003 at about 10.50 AM at Railway Platform within jurisdiction of Police Station GRP Faridabad. All these witnesses were cross-examined at length on behalf of the accused but they could not be shattered on any material point, rather they stuck to their guns. No motive has been suggested or proved prompted by which they might have involved the accused falsely or deposed against her to secure her conviction. All the PWs deposed in a natural and convincing manner and account given by them inspire confidence. From the other evidence adduced by the prosecution in the form of PW1 Constable Narbir Singh who was handed over sample parcel by ASI

Bijender Singh duly sealed with seals of IO and DSP and who had deposited the same with FSL, Madhuban, vide RC No.412 dated 24.12.2003 and thereafter, handing over receipt to Moharar/ASI Bijender Singh on 24.12.2003 and further from testimony of PW3 ASI Bijender Singh who on 19.12.2003 was posted as Moharar/ASI at Police Station GRP Faridabad and who had recorded formal FIR Ex.PB/1 on receipt of ruqa Ex.PB making endorsement Ex.PB/2 below the ruqa and with whom SI Maya Ram had deposited the case property sealed with the seals having letter 'MR' and 'SV' on 19.12.2003 handing over the sample parcel to Constable Narbir Singh for depositing the same with FSL Madhuban on 24.12.2003 and who had testified in that regard, it comes out that the case property had remained in safe custody and no tampering of seals had taken place till the sample parcel reached FSL Madhuban.

10. From report received from FSL, Madhuban, it comes out that the sample parcel had reached there with seals intact and on analysis it was found to be that of charas. In that way, necessary link evidence is there and so is result of analysis of the sample parcel by FSL finding it to be that of charas. Therefore, the possession of contraband by the accused stands proved. As has come in the evidence adduced by the prosecution, the accused was carrying the contraband in a polythene, put in red cloth and tied under her wearing clothes, therefore, she comes to be in conscious possession of the charas and she cannot take a plea that she was unaware of the fact that the material being carried by her was charas.

11. The prosecution has successfully proved its charge against

the accused conclusively and affirmatively whereas the accused had failed to render any reasonable or plausible explanation for her alleged false implication in the case.

12. The judgment of conviction passed by the trial Court is quite detailed, well reasoned, does not suffer from any illegality or infirmity. The same is upheld. As regards the sentence, the accused was found carrying contraband in the form of charas which amounts to commercial quantity. Such type of drug traffickers for a pecuniary benefit put the lives and health of various persons in danger by providing easy supply of the drugs do not deserve any leniency. Even otherwise she has been granted minimum punishment prescribed for the offence and there is no scope for reduction of sentence. The appeal is found to be without merit and is dismissed accordingly.

13. The appellant/accused is directed to surrender before Chief Judicial Magistrate, Faridabad within a week from today, failing which learned CJM, would issue warrants of arrest to secure her presence and send her to jail to undergo the remaining sentence. Necessary intimation be sent to the Court concerned for information and compliance.

18.08.2022

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**(H.S. MADAN)**  
**JUDGE**

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