

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

CRM-A-2023-MA-2018 (O&M)

Date of Decision:08.12.2022

STATE OF PUNJAB

..... Petitioner

Versus

MITTER SINGH AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Digvijay Nagpal, AAG, Punjab.

None for the respondents.

JAGMOHAN BANSAL, J. (Oral)

CRM-33991-2018

Application is for condonation of delay of 113 days in filing the appeal.

Keeping in view the averments made in the application, the application is allowed and delay is condoned.

CRM stands disposed of.

CRM-A-2023-MA-2018

The appellant-State through instant application is seeking leave to appeal in terms of Section 378 (3) Cr.P.C. against judgment dated 30.11.2017 passed by Judge Special Court, Amritsar whereby respondent-accused has been acquitted of the charges.

The brief facts of the case as emerging from record are that the police apprehended respondents and effected recovery of intoxicant powder. The Investigating Officer after completing investigation filed his report in terms of Section 173 Cr.P.C. The prosecution led its evidence. After completion of prosecution evidence, the accused were examined under Section 313 Cr.P.C. The respondents tendered their

statements under Section 313 Cr.P.C.

Learned Trial Court after scrutinizing record and considering arguments of both sides concluded that there is non-compliance of mandate of Section 50 of NDPS Act, thus, accused/respondents are entitled to benefit of doubt and acquitted both the accused.

Learned State counsel submits that it is a case chance recovery and there was recovery of commercial quantity, thus, Trial Court has wrongly acquitted the accused/respondents.

I have perused the record and heard the arguments.

It is undisputed fact that recovery was effected from the person of the respondents and there is non-compliance of Section 50 of NDPS Act which is mandatory provisions. Hon'ble Supreme Court time and again has reminded the authorities that non-compliance of Section 50 of NDPS Act is fatal to the case of prosecution and it is non-curable defect. The provisions of NDPS Act are draconian, therefore, need to be strictly complied with. No case is made out to grant special leave to appeal.

Accordingly, application seeking special leave to appeal is dismissed.

(JAGMOHAN BANSAL)
JUDGE

08.12.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>