

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

322

CRA-S-1704-SB-2003 (O&M)

Reserved on: 10.11.2022

Date of Decision: 10.01.2023

Jagtar Singh

...Appellant

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. K.P.S. Virk, Advocate
for the appellant.

Ms. Sheenu Sura, DAG, Haryana.

N.S.SHEKHAWAT, J.

The present appeal is directed against the judgment of conviction 23.07.2003 and order of sentence dated 24.07.2003 passed by the learned Judge, Special Court, Kaithal, whereby, the present appellant was convicted under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as '**the NDPS Act**') and sentenced to undergo rigorous imprisonment for ten years and to pay a fine of Rs. 1,00,000/- alongwith default stipulation.

The brief facts of the present case are that on 18.07.1999, ASI Om Parkash, In-charge, Police Post, Ramthali was present on a road, which leads from Guhla to Kharka alongwith other police officials and a secret information was received that gunny bags of poppy husk had been loaded in a truck and the said truck was being driven by Jagtar Singh son of Jeet Singh and Hardeep Singh son of Gurcharan Singh is also with him in the said truck. The said two

accused were in the habit of selling poppy husk and if a picket was set up, the accused could be apprehended with the truck carrying the poppy husk. One truck was seen coming from the side of Guhla after some time and was signalled to stop by the police party. When the truck was signalled to stop with the light of the torch, Hardeep Singh, who was known to the Investigating Officer, alighted from the truck and fled away. He was identified by ASI Om Parkash as they were previously known to each other. Jagtar Singh, driver was apprehended at the spot. After his arrest, a notice under Section 50 of the NDPS Act was served upon the accused Jagtar Singh and the offer regarding search was given to him. The accused opted to get his search conducted in the presence of a gazetted officer, as per his reply Ex.PC and a memo was prepared in this regard. Om Parkash Kadiyan, the Deputy Superintendent of Police, Guhla was telephonically informed and he reached at the spot. He again informed the accused, after being apprised of the facts of the case. At the instance of Om Parkash Kadiyan, the Deputy Superintendent of Police, ASI Om Parkash conducted the search of truck and on checking, 19 gunny bags containing poppy husk were found loaded in the truck upon unloading and weighing, the weight of each gunny bag was found to be 40 kgs. Out of each gunny bags, 250 grams poppy husk was separated for the purpose of sample and the same were made into parcels. The residue quantity of poppy husk was also converted into a separate parcel and the seal 'OP' of the Investigating Officer and 'OPK' of the the Deputy Superintendent of Police were affixed on the same. Seal 'OP' was

handed over to HC Satyawar after use whereas seal 'OPK' was kept by the the Deputy Superintendent of Police with himself. The sample parcel, residue parcel, sample seal impressions, truck, RC etc., were taken into possession by the police and the *ruka* Ex.PA was sent to the police station for registration of the FIR, on the basis of which, formal FIR Ex.PA/1 was recorded. Rough site plan was prepared and the statements of the witnesses were recorded. Notice under Section 52 of the Act was served upon Jagtar Singh and accused/witnesses/case property and truck were produced before the Station House Officer of Police Station Guhla on the said day for verification. SHO also verified the facts of the case and had put an additional seal of 'RS' on the sample parcels, residue bags and directed the police party to deposit the case property with the MHC. A report under Section 57 of the Act was again prepared and was sent to the concerned DSP in compliance of Section 57 of the Act. After completion of the investigation, the report under Section 173 Cr.P.C., was presented in the competent Court against Jagtar Singh. The sample parcels were sent to FSL Madhuban for analysis and the chemical examiner found the samples to be containing poppy straw (*chura post*) vide report Ex.PL.

After complying with the mandatory provisions, the charge under Section 15 of the NDPS Act was ordered to be framed against the present appellant, to which, he pleaded not guilty and claimed trial.

