



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPEAL NO. 467 OF 2024

Benkatkumar Raman @ Raja s/o Narayan
Singh, Convict No. C/10674,
Aged 32 years, Occupation - Nil,
R/o Khalapara, Ganeshpur, Hanumangadh,
District – Surajpur, (Chhatisgarh).

... Appellant

// VERSUS //

State of Maharashtra,
through Police Station Officer, Police Station,
Hingna, District Nagpur.

... Respondent

WITH

CRIMINAL APPEAL NO. 143 OF 2022

Sushilkumar s/o Badriprasad Chandra,
Aged about 27 years, Occupation : Driver,
R/o Bajrang Chowk, Saloni Kala, Tahsil-
Bhilaigadh, District Baloda Bazar,
Chhattisgarh.

... Appellant

// VERSUS //

State of Maharashtra,
through Police Station Officer, Police Station,
Hingna, District Nagpur.

... Respondent

Ms. Shweta Chavhan, Advocate for the appellant in Appeal No. 467/2024
Mr. L.B. Khergade Advocate for appellant in Appeal No. 143/2022
Ms. H.N. Prabhu, Addl.P.P. for the respondent/State.

CORAM : NIVEDITA P. MEHTA, J.

Reserved on : 19th November, 2025.
Pronounced on : 28th November, 2025.

COMMON JUDGMENT :

Both the appellants have preferred the respective appeals; being aggrieved by the judgment and order dated 07.12.2020 passed by the learned Special Court, NDPS Act, Nagpur in Special Criminal (NDPS) Case No. 22 of 2017 thereby convicting the appellants for the offence punishable under Sections 20(b)(ii) (C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred as “NDPS Act”) and sentencing to suffer rigorous imprisonment of ten years and to pay a fine Rs.1,00,000/- each, and in default, the appellants to suffer rigorous imprisonment for two months. Both these appeals are tagged together being arising out of the same judgment and also the respective counsels appearing for the appellants in both the appeals are heard at length.

2. It is the case of the prosecution that Accused No. 1 (appellant in Criminal Appeal No. 467/2024) and accused No. 2 (appellant in Criminal Appeal No. 143/2022) are prosecuted for offences punishable under Sections 8(c), 20 and 29 of the NDPS Act. It is alleged that on 09.10.2016, Ganja weighing 89.338 kg. was found in their Swift Dzire Car, within the jurisdiction of Police Station Hingna, Nagpur, in contravention of the provisions of the NDPS Act. The said contraband was allegedly seized from the possession of the appellants by the first informant, Shri Narendra Giri, in the presence of two panch witnesses. Upon completion of the

necessary formalities, Crime No. 356/2016 came to be registered at Police Station Hingna for the aforesaid offences.

3. Investigation was carried out by Senior Police Inspector Shri Dipak Khobragade. During the course of investigation, he submitted the compliance report as mandated under Section 57 of the NDPS Act, obtained the inventory certificate, secured the chemical analysis report, recorded the statements of the witnesses, and thereafter filed the charge-sheet.

4. The learned Judge, Special Court (NDPS), Nagpur, framed Charge at Exhibit 3 for the offences punishable under Section 20 and Section 20 read with Section 29 of the NDPS Act. The appellants pleaded not guilty and claimed to be tried.

5. The prosecution, in support of its case, examined five witnesses: (i) P.W.1 – Shri Narendra Giri, the first informant at Exh. 11; (ii) P.W.2 – Shri Sachin Dohane, the panch witness at Exh. 31; (iii) P.W.3 – Ms. Manjusha Ganjude, the carrier of the muddemal to the RFSL at Exh.36; (iv) P.W.4 – Shri Narendra Niswade, the Duty Officer at Exh. 39; and (v) P.W.5 – Shri Dipak Khobragade, the Investigating Officer at Exh. 46. After closure of evidence for prosecution the appellants were examined under section 313 of Code of Criminal Procedure, 1973.

6. The learned Special Judge, upon appraisal of the oral and documentary evidence, recorded a finding of guilt against the appellants for the offence punishable under Section 20(b)(ii)(C) of the NDPS Act. The learned Trial Court noted that

P.W.1 – the first informant – had received prior information and duly complied with Section 42(1) of the NDPS Act before laying the trap. The vehicle of the appellants was intercepted pursuant to the directions of the superior officer, and written intimations under Section 50(1) were served upon the appellants. The ensuing search led to the recovery and seizure of a substantial quantity of ganja from the vehicle, which was sealed on the spot under a seizure panchanama.

7. The learned trial Court further observed that samples drawn from the seized contraband were forwarded in sealed condition to the RFSL, Nagpur, through P.W.2. The Chemical Analysis Report (Exh. 42) and Data Sheet (Exh. 43) confirmed that all 14 sealed parcels contained ganja, thereby establishing the nature of the seized substance in terms of Section 2(iii)(b) of the NDPS Act. The testimonies of P.W.1, P.W.2, and P.W.4 were found to be consistent and trustworthy, and the cross-examination of the prosecution witnesses did not elicit any material to discredit their version.

8. The learned trial Court held that the seizure of ganja from the possession of the appellants stood proved, and the seizure panchanama was found to be genuine. However, the learned trial Court recorded that no substantive evidence was led to establish the charge under Section 29 of the NDPS Act, and accordingly the appellants were acquitted of the allegation of abatement and criminal conspiracy.

9. On the strength of the proved evidence, the learned Special Judge concluded that the prosecution had successfully established the charge under Section 20(b)(ii) (C) of the NDPS Act beyond reasonable doubt, and therefore convicted both the appellants for the said offence and upon hearing them, passed the order imposing punishment.

10. Being aggrieved by and dissatisfied with the impugned judgment and order, the appellants have filed the respective present appeals.

11. I have heard the learned Counsel Ms. Shweta Chavhan for the appellant in Criminal Appeal No. 467/2024, learned Counsel Mr. L.B. Khergade for the appellant in Criminal Appeal No. 143/2022 and the learned Additional Public Prosecutor Ms. H.N. Prabhu for the State in both the appeals. With the assistance of the learned Counsels, I have perused the evidence and material on record.

12. **Defence Submissions :** The respective learned Counsel for the appellants made the following submissions;

i) The prosecution case suffers from serious infirmities which go to the root of the matter. It is submitted that there is no material on record to show compliance with the mandatory provisions of Section 47, Section 50(1) and (3), and Section 42(1) and (2) of the NDPS Act. The absence of reference to such compliance in the documents and oral evidence, according to the defence, vitiates the entire search and seizure.

ii) It is further argued that the **Spot Panchanama** as well as the **Seizure Memo** record the weight of the seized contraband (ganja) contained in 14 packets; however, these weights do not tally with the weights subsequently mentioned in the **Inventory Report**. The defence points out significant and unexplained variations in the measurements, which cast serious doubt on the genuineness of the alleged seizure.

iii). Attention was invited to the testimony of **PW-3**, who admitted that the seized articles did not bear any seal at the time they were taken into custody. According to the defence, this omission is fatal, as the integrity of the seized material cannot be ensured. It is further submitted that **PW-4** purportedly re-sealed the packets before forwarding them to the Regional Forensic Science Laboratory for chemical analysis. The defence contends that such resealing, in the absence of proper explanation, raises doubts about the sanctity of the muddemal property.

iv). It is also pointed out that there are **material inconsistencies in the evidence** of prosecution witnesses regarding the handing over and transmission of the seized property. PW-4 initially stated that the CA Tapasani Form was at Exhibit-24, but in cross-examination stated that it was at Exhibit-71. These contradictions, according to the defence, are significant omissions affecting the credibility of the prosecution evidence.

v). The defence further submits that the **non-examination of material witnesses** has prejudiced the appellants. Constable Gadre, who allegedly issued the duty pass to PW-3, was not examined. Other members of the raiding party have also not been

brought before the Court. Moreover, though PW-1 claims to have communicated the information regarding the raid to ACP Raut, the said ACP has not been examined. According to the defence, the failure to examine these crucial witnesses creates serious gaps in the prosecution story.

vi). The learned Counsel for the appellants contends that the entire prosecution case suffers from non-compliance of mandatory provisions of the NDPS Act and procedural irregularities that vitiate the trial. It is argued that though PW-1 claims to have complied with Section 42, the so-called written information (Exh.12) was admittedly typed with the help of a constable, and there is no proof of its real-time dispatch to the ACP. The defence contends that the timing, manner, and circumstances of Section 42 compliance are artificial, and therefore fatal.

vii). It is further urged that the Station Diary entry (Exh.21) does not contain the names of panch witnesses, raising suspicion about their genuine presence during the raid. According to the defence, PW-2 was picked up by the police at midnight without any summons, and the failure to record his name in the diary creates a serious dent in prosecution credibility. The defence asserts that PW-2 is a “stock panch” and was brought in only to mechanically support police action.

viii). Learned Counsel argues that the written notices under Section 50 (Exh.22 & 23) do not bear the names of the panch witnesses and the appellants have merely signed under pressure. It is contended that Section 50 was not properly complied with, and the alleged “consent” was not voluntary. Moreover, since personal search

allegedly yielded cash and mobile phones, the prosecution's stance that Section 50 was complied with becomes even more crucial, and deficiencies should enure to the benefit of the appellants.

ix). The defence highlights serious lapses in the chain of custody. PW-3 admitted that the duty pass does not mention time of return and that there is no acknowledgement from the Muddemal Moharrir showing receipt of sealed packets. There is no mention in invoice challan (Exh.38) of which seal was affixed or whose signatures the packets bore. These omissions, it is submitted, cast grave doubt on whether the same samples reached RFSL.

x). Learned Counsel submits that the FIR (Exh.29) lacks essential details, including the time of receipt of information under clause 3(b), and even the complaint (Exh.28) does not bear time or date endorsement. Further, the prosecution failed to establish ownership or actual registration of the vehicle; PW-5 admitted that the number plate was fake and the vehicle owner or original number was not traced. This, according to the defence, weakens the prosecution case and suggests the appellants were randomly apprehended.

xi). The defence argues that PW-1, being both first informant and Investigating Officer, has violated the principle against "complainant-cum-investigator", which creates legitimate apprehension of bias. It is urged that the officer who files a report should not investigate the offence, especially in NDPS cases.

xii). The defence contends that Section 42 compliance is fabricated, Section 50 was not properly executed, panch witness was not independent, station diary does not mention his name, chain of custody is doubtful, and PW-1 being both informant and investigator vitiates the trial. It is argued that omissions in endorsements, timings, and record entries create serious doubt. It is further contended that the fake number plate and untraced ownership of vehicle weaken the prosecution case. The Counsel for the appellants relied on the judgments of *Gurbax Singh Vs. State of Haryana, 2001 SCC (Cri) 426*, and ii) *Union of India vs. Mohan Lal, (2016) 3 SCC 379* in support of their contentions. In view of the above infirmities, contradictions, omissions, and non-compliance with mandatory procedural requirements, the defence argues that the investigation is riddled with loopholes, thereby creating substantial doubt about the prosecution case. It is submitted that the accused is entitled to the benefit of such doubt.

13. Per contra the learned Additional Public Prosecutor for the State submits as under -

i) The prosecution has succeeded in proving, through cogent ocular and documentary evidence, the receipt of secret information, the interception of the Swift Dzire vehicle bearing No. CG-04/LB-6644, and seizure of 89.338 kg. of Ganja, which squarely attracts the provisions of Sections 8(c), 20(b)(ii)(C) and 29 of the NDPS Act. It is argued that PW-1 ASI Narendra Giri scrupulously complied with Section 42(1) & (2) of the NDPS Act by reducing the information into writing

(Exh.12) and forwarding it to the ACP (Exh.13), which is also reflected through entries in the Station Diary (Exhs.18–21).

ii). Both the appellants were found sitting in the car at the relevant time and commercial quantity of contraband Ganja was seized from their conscious possession. The prosecution further contends that the interception of the vehicle occurred on a public road near Jashmesh Dhaba, which squarely brings the case under Section 43, and therefore, as held in *Karnail Singh v. State of Haryana*, the rigors of Section 42 stand relaxed and substantial compliance is sufficient.

iii). Learned Addl.P.P. places reliance on Exhs.22 and 23, the written notices under Section 50, to argue that the appellants were duly informed of their right to be searched before a Magistrate or Gazetted Officer, and that the endorsement of refusal and signatures of the appellants establish complete compliance. The presence and signatures of Panch PW-2 on these notices further reinforces their authenticity.

iv). It is submitted that the seizure of 14 packets of Ganja, drawing of separate samples, sealing in presence of panch witnesses, preparation of CA Form (Exh.24), and resealing by the Duty Officer PW-4 demonstrate an unbroken chain of custody. PW-3 WPC Manjusha proved the transit of sealed packets to the RFSL, supported by invoice challan (Exh.38). The CA reports (Exhs.42 & 43) confirm the seized material as *Ganja*, establishing the nexus of the appellants with the contraband.

v). The prosecution stresses that PW-2, a neutral panch, has fully corroborated the seizure procedure and has withstood cross-examination. The defence's allegation

of “stock panch” remains unsubstantiated. The prosecution urges that minor omissions, such as non-mentioning of certain details in station diary or seizure documents, would not vitiate the investigation.

vi). Learned Addl.P.P. argues that the defence has failed to impeach the credibility of prosecution witnesses and no enmity is shown between appellants and police officers to suggest false implication. The recovery of a huge quantity of Ganja from the exclusive possession of the appellants and their own admission of transporting it are sufficient to bring home guilt beyond reasonable doubt. The learned Addl.P.P. relied on the judgment in *Bharat Ambale Vs. State of Chhattisgarh*, AIR Online 2025 SC 43 on the count that mere non-compliance of section 52 A of the NDPS Act would not itself render trial vitiated or result into an automatic acquittal unless there are discrepancies in physical evidence which may not have been there had such compliance been done. As such the learned Addl.P.P. argues that there are no discrepancies in the evidence adduced by the prosecution. The learned Addl.P.P. also relied on the judgment of *Jarnail singh vs. State of Punjab*, (2011) 3 SCC 521 to contend that the prosecution has complied with all the procedures as contemplated in the NDPS Act.

14. The prosecution has examined five witnesses, whose testimonies, upon careful scrutiny, are found to be consistent, mutually corroborative, and cumulatively adverse to the appellants. The depositions establish the chain of events beginning from receipt of secret information, proceeding to the interception of the vehicle,

seizure of commercial quantity of Ganja, arrest of appellants, sealing of samples, deposit with RFSL, and conclusion of investigation. Each witness presents an unshaken account, and their statements remain largely uncontroverted in cross-examination. Accordingly, the Court now undertakes a comprehensive appraisal of the oral and documentary evidence, assessing its consistency, legality, and probative force, in order to arrive at a just and reasoned conclusion.

15. Deposition of PW-1: ASI Narendra Giri (First Informant & Seizure Officer)

PW-1 deposed that on 09.10.2016 at 2:45 a.m., he received specific secret information regarding the movement of two absconding accused in another crime were transporting Ganja in a Swift Dzire Car. His testimony establishes that he forthwith reduced the information into writing (Exh.12) and forwarded the same to ACP (Exh.13), thereby complying with Section 42(1) & (2). He proved Station Diary entries (Exhs.18, 19, 20, 21) reflecting preparations for the raid.

PW-1's testimony further establishes the interception of the vehicle at Jashmesh Dhaba, recovery of 14 packets of Ganja weighing 89.338 kg, drawing and sealing of samples S-1 to S-14, sealing of bulk packets P-1 to P-14, preparation of CA form (Exh.24), arrest of appellants (Exh.26 & 27), and registration of FIR (Exh.29). He also proved the seizure panchanama (Exh.25).

The Court finds that the deposition of PW-1 is directly incriminating and clearly establishes possession of commercial quantity of Ganja by the appellants. Despite lengthy cross-examination, PW-1 remained firm and no material

contradiction could be elicited. His testimony, corroborated by documents, is strongly against the appellants.

16. Deposition of PW-2: Panch Witness Sachin Dohane

PW-2, an independent panch, corroborated the entire seizure process. He confirmed that he was summoned for the raid, accompanied the police to the spot, witnessed interception of the Swift Dzire Car, identified both appellants, and attested the service of written notices u/s 50 (Exh.22 & 23).

He further affirmed that four packets were found on the back seat and ten in the dickey, that police opened all packets in his presence, and that they contained Ganja. He confirmed weighing, sampling, sealing, and preparation of seizure panchanama (Exh.25), on which his signature is present.

His deposition is strongly adverse to the appellants and provides independent corroboration to PW-1. Although defence tried to label him as a “stock panch,” no material supporting this allegation was brought forth. His testimony strengthens the prosecution version materially.

17. Deposition of PW-3: WPC Manjusha – Carrier of Samples to RFSL

PW-3 proved that she received 14 sealed packets of samples along with CA Form and duty pass (Exh.37), made the relevant Station Diary entries, transported the samples to RFSL, and obtained acknowledgement (Exh.38).

Her evidence establishes an unbroken chain of custody. Minor omissions pointed out in cross-examination do not suggest tampering and cannot vitiate the trial. Her deposition is also against the appellants, inasmuch as it supports the integrity of seized contraband and samples tested at RFSL.

18. Deposition of PW-4: API Niswade – Duty Officer who registered FIR

PW-4 deposed that he received the complaint (Exh.28), registered FIR (Exh.29), and received 14 sealed packets, 14 sample packets, CA form, two mobiles, cash, and the vehicle from PW-1. He resealed the packets to ensure continuity of custody through the Muddemal Moharrir. He confirmed that PW-1 acted as both informant and initial investigator.

His deposition, too, supports and links the seizure to the formal FIR and proceedings. Defence could not dismantle his explanation. His evidence stands adverse to the appellants.

19. Deposition of PW-5: API Dipak Khobragade – Investigating Officer

PW-5 deposed to conducting inventory proceedings before JMFC (Exh.51), collecting original documents (Exh.52), receiving CA reports (Exhs.42 & 43) confirming the seized substance as Ganja, and completing investigation. He also explained the discovery that the vehicle bore a fake registration number, which indicates deliberate concealment by appellants.

His testimony completes the chain from seizure to filing charge-sheet. The cross-examination did not reveal contradictions affecting core prosecution case. His deposition is clearly adverse to the appellants.

Court's Analysis -

20. Having heard the learned Counsel for the appellants as well as the learned Addl.P.P. for the State, and having carefully scrutinised the entire evidence and material on record, this Court proceeds to evaluate the rival submissions and the findings recorded by the learned trial Court. The primary contention of the defence is that the prosecution case is vitiated by non-compliance with mandatory provisions of Sections 42, 47 and 50 of the NDPS Act, coupled with alleged infirmities in the seizure, sampling and chain of custody, and further that the contradictions in the testimonies of PW-2, PW-3 and PW-4 materially erode the credibility of the prosecution evidence. According to the appellants, the written information at Exhibit 12 was fabricated, its forwarding to the superior officer as contemplated by Section 42(2) was not duly proved, and the absence of contemporaneous endorsement or acknowledgement renders the alleged compliance illusory. It is further argued that the Spot Panchanama and the Inventory Report depict differing weights of seized packets, PW-3's deposition allegedly shows absence of seals at the time of custody, and the resealing done by PW-4 is unexplained, thereby breaking the sanctity of the muddemal. The defence also stressed that several material witnesses such as the ACP, Constable Gadre and other members of the raiding party were withheld and that PW-

2 is a “stock panch” whose name does not appear in the Station Diary, and that the notices under Section 50 were mechanically obtained, not bearing names of panch witnesses. The argument further proceeds that the chain of custody is not proved in view of missing endorsements in the duty pass, invoice challan or station diary entries, and that the use of a vehicle with fake number plate and untraced ownership casts doubt on the prosecution narrative.

21. On the other hand, the learned Addl.P.P. has supported the impugned judgment by submitting that PW-1 scrupulously complied with Section 42(1) and (2) of the NDPS Act by reducing the information into writing and forwarding the same to the ACP, which is duly reflected in Station Diary entries at Exhibits 18 to 21. It is contended that the interception of the Swift Dzire Car near Jashmesh Dhaba at a public place attracts Section 43 of the Act, and therefore, in light of the law laid down in *Karnail Singh v. State of Haryana*, (Supra) substantial compliance with Section 42 is sufficient. This Court finds paragraph 17 of the said judgment relevant which reads thus:

17. It is clear from Sajan Abraham [(2001) 6 SCC 692 : 2001 SCC (Cri) 1217] that to enforce the law under the NDPS Act stringently against the persons involved in illicit drug trafficking and drug abuse, the legislature has made some of its provisions obligatory for the prosecution to comply with, which the courts have interpreted to be mandatory. It is further clear that this is in order to balance the stringency for an accused by casting an obligation on the prosecution for its strict compliance. The Court however while construing such provisions strictly should not interpret them literally so as to render their compliance impossible. It concluded that if in a case, the strict following of a mandate results in delay in trapping an accused, which may lead the accused to escape, then

the prosecution case should not be thrown out. It is also clear that when substantial compliance has been made it would not vitiate the prosecution case.

22. The learned Addl.P.P. maintains that the written notices under Section 50 at Exhibits 22 and 23 were duly served, that PW-2 has corroborated the entire seizure process, and that the presence of his signatures on seizure panchanama (Exh.25) and Section 50 notices dispels the allegations of fabrication. The prosecution asserts that the chain of custody is fully established through the testimonies of PW-1, PW-3 and PW-4, supported by CA Form, duty pass and acknowledgement at Exhibit 38; that the CA Reports at Exhibits 42 and 43 confirm that all samples contained Ganja; and that minor omissions in station diary entries or forwarding documents do not affect the integrity of the seizure. Reliance was placed on *Jarnail Singh v. State of Punjab* (supra) to support the argument that the procedural compliance reflected on record is adequate, and also on *Bharat Ambale v. State of Chhattisgarh* (supra) to contend that mere non-compliance with Section 52-A of the NDPS Act is not *per se* fatal unless prejudice is demonstrated. Paragraph 33, which merits reproduction, reads thus:

33. Even in cases where there is non-compliance with the procedural requirements of Section 52A, it does not necessarily vitiate the trial or warrant an automatic acquittal. Courts have consistently held that procedural lapses must be viewed in the context of the overall evidence. If the prosecution can otherwise establish the chain of custody, corroborate the seizure with credible testimony, and prove its case beyond reasonable doubt, the mere non-compliance with Section 52A may not be fatal. The emphasis must be on substantive justice rather than procedural technicalities, and keeping in mind that the salutary objective of the NDPS Act is to curb the menace of drug trafficking.

23. The defence has sought to rely on *Gurbax Singh v. State of Haryana*, 2001 SCC (Cri) 426, and *Union of India v. Mohan Lal*, (2016) 3 SCC 379, in support of its contention that alleged infirmities such as purported non-compliance with Sections 42 and 52 of the NDPS Act, the alleged lack of independence of the panch witness, discrepancies in station diary entries, doubtful chain of custody, and the dual role of PW-1 as informant and investigator vitiate the prosecution case. However, the reliance on these decisions is misplaced.

In *Gurbax Singh*, the Supreme Court interfered on account of clear, demonstrable, and substantive violations going to the root of the prosecution case. The Court emphasised that each case must turn on its own facts, and the benefit of doubt arises only where the cumulative effect of material contradictions undermines the prosecution's ability to prove guilt beyond reasonable doubt. The factual matrix in the present case does not disclose such foundational infirmities. The prosecution has led consistent and corroborative evidence pertaining to receipt of information, compliance with procedural safeguards, seizure, and preservation of contraband, which distinguishes the matter from the deficiencies noted in *Gurbax Singh*. Thus, the ratio of the said decision cannot be mechanically applied.

Similarly, the issue of the same officer acting as informant and investigating officer, which the learned Counsel has argued is incorrect as no prejudice is shown to have been caused to the appellants, nor the investigation is shown to be tainted on account of such duality, the trial does not stand vitiated solely on that ground. In the

present case, the defence has failed to demonstrate any tangible prejudice or any material suggesting that the investigation was biased or compromised. The evidence on record, duly tested in cross-examination, does not indicate any manipulation or suppression attributable to the dual role of PW-1.

Therefore, the jurisprudence relied upon by the defence, when properly contextualised, does not advance their case. The alleged discrepancies relating to diary entries, panch witness credibility, the vehicle's number plate, or ownership details, even if assumed to exist, are not of such magnitude as to erode the core of the prosecution case. The cited authorities do not mandate acquittal in the absence of demonstrated prejudice or where the overall evidence establishes the prosecution case beyond reasonable doubt. The appellants, thus, cannot derive any benefit from the judgments relied upon.

24. Upon a careful re-appreciation of the entire evidence, this Court finds that PW-1 has given a cogent and consistent account of receipt of secret information at 2:45 a.m., reducing the same into writing (Exh.12), forwarding it to the ACP (Exh.13), and making contemporaneous entries in the Station Diary. The evidence of PW-1 is corroborated by documentary material and has remained undented in cross-examination. PW-2, the panch witness, has corroborated the interception of the vehicle, the service of notices under Section 50, the recovery of 14 packets of Ganja from the car, and the process of weighing, sampling and sealing. His testimony appears natural and independent, and nothing has emerged in cross-examination to

impeach his credibility. PW-3 has proved the transportation of sealed samples to RFSL, while PW-4 and PW-5 have connected the seizure, resealing, forwarding, CA report and completion of investigation. The CA Reports unequivocally establish that all samples tested positive for Ganja. Collectively, these depositions form a seamless chain commencing from receipt of information and culminating in scientific confirmation of the contraband.

25. The contention regarding variation between the weight recorded in the seizure panchanama and the weight reflected in the inventory proceedings also does not advance the defence case. It is well-recognized that the green leaves of Ganja are susceptible to gradual dehydration and natural loss of moisture over time, particularly when seized in bulk quantities and stored pending inventory. Such natural drying of the substance inevitably results in marginal variation in weight and cannot, by itself, be construed as tampering or manipulation of the muddemal. In the present case, the variation pointed out is minor, reasonably explainable by the natural drying process, and does not undermine the fact that the contraband seized was of commercial quantity. The substance remained identifiable and intact, and more importantly, the Chemical Analysis Reports (Exhs. 42 and 43) conclusively affirm that all samples were of Ganja. Therefore, the alleged discrepancy in weight does not create any doubt regarding the genuineness of the seizure.

26. The alleged discrepancies in weight are minor and relate to post-seizure verification and repacking; they do not detract from the fact that a commercial

quantity of Ganja was seized. The contention of broken chain of custody is unsubstantiated, as both PW-3 and RFSL records confirm intact seals upon receipt. The non-examination of some police officials or the ACP, in the presence of otherwise cogent and unshaken evidence, does not constitute a fatal omission. The argument that PW-1 acted as both informant and investigator is also unsustainable, as the substantive investigation was carried out by PW-5. The use of a fake registration plate rather than weakening the prosecution case, in fact, suggests deliberate concealment by the appellants. The compliance with Section 42 stands established, and the alleged absence of panch names in Station Diary does not override the direct testimony of an independent panch who remained steadfast throughout. Similarly, the service of notices under Section 50 is proved by contemporaneous documents and independent corroboration. The defence has failed to demonstrate any incurable illegality or prejudice caused to the appellants.

27. In this backdrop, the Court finds that the contentions raised by the defence are either based on minor discrepancies or on speculative inferences that do not shake the prosecution case. The evidence of PW-1 to PW-5 is mutually consistent, trustworthy and sufficiently corroborated by contemporaneous records. The chain of custody remains intact, compliance with statutory mandates is established, and the scientific reports substantiate the nature of the substance seized. The prosecution has thus succeeded in proving beyond reasonable doubt that the appellants were found in conscious possession of 89.338 kilograms of Ganja, a commercial quantity, thereby attracting Section 20(b)(ii)(C) of the NDPS Act. No perversity, illegality or material

irregularity is found in the findings of the trial Court warranting interference. The conviction recorded by the learned Special Judge therefore stands affirmed.

Order

- i) The Criminal Appeals are dismissed.
- ii) The judgment and order dated 07.12.2020 passed by the learned Special Court, NDPS Act, Nagpur in Special Criminal (NDPS) Case No. 22 of 2017 is hereby confirmed.
- iii) The conviction and sentence shall continue to operate as imposed by the learned Special Court. The appellants shall be entitled to set off under Section 428 of the Cri.P.C. for the period already undergone in Jail.
- iv) The appellant Sushilkumar s/o Badriprasad Chandra in Criminal Appeal No. 143/2022 is on bail. His bail bond stand cancelled. He shall be taken in custody forthwith to serve the sentence. Hingna Police Station, District Nagpur to file a compliance report in the registry within two weeks.

NIVEDITA P. MEHTA