

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-D-392-DBA-2004 (O&M)

Date of Reserved: 30.10.2025

Date of Pronouncement: 26.11.2025.

State of Haryana

...Appellant.

Versus

Karan Singh @ Kuku

...Respondent.

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Argued by: Mr. Rajiv Sidhu, Sr. DAG, Haryana and
Mr. Rajinder Kumar Banku, Sr. DAG, Haryana.

Mr. U.K. Agnihotri, Advocate with
Mr. Anuj Y. Attri, Advocate for the respondent.

Sukhvinder Kaur, J.

1. The appellant-State has preferred the instant appeal against judgment dated 27.02.2003, passed by learned Additional Sessions Judge-II, Jind, vide which respondent-accused Karan Singh @ Kuku has been acquitted.

2. Factual Scenario, as per prosecution version is that on 30.12.1998, when SI Wazir Singh along with other police officials were present on Sunder Branch Bridge on Pucca Road from village Nandgarh to village Bharon Khera and was talking with Ved Singh Ex.Sarpanch, a person came on a scooter without any number plate being driven rashly and negligently. When the said person was stopped, he perplexed and on interrogation disclosed his identity as Karan Singh @ Kuku son of Nathu Ram (accused/ respondent). On suspicion of having opium or charas in his possession, the accused was served with a notice under Section 50 of NDPS Act and the accused opted for his search in presence of a Gazetted Officer.

Subhash Yadav, DSP, Head Quarter, Jind, was called at the spot and search of the accused was conducted. One green colour bag was recovered from the foot rest of the scooter and upon opening the said bag, charas in two wax paper was recovered. From each wax paper 100 grams was separated as sample and the residue on weighment was found to be 6 Kgs 800 grams, which was poured into the same bag. Sample parcels and residue were sealed with seal 'WS ad 'SY'. The seal 'WS' after use was handed over to HC Ram Avtar, whereas seal 'SY' was retained by the DSP. The sample parcels, residue and the scooter were taken into police possession. FIR was registered. Rough site plan of the place of recovery was prepared and the statements of witnesses under Section 161 Cr.P.C. were recorded. The accused was arrested and the case property was handed over to MHC of the Police Station, who prepared report under Section 57 of the NDPS Act and sent the same to DSP, Head Quarter, Jind. The samples were sent to Director FSL Madhuban and on received of FSL report and completion of all other formalities, challan under Section 173 Cr.P.C. against the accused person was presented in the court, for judicial verdict.

3. After finding a prima facie case against the accused, he was charge-sheeted for the offences punishable under Section 20 of NDPS Act, to which he pleaded not guilty and claimed trial.

4. In order to prove its case, the prosecution has examined PW1-Ganga Ram, PW2-HC Devi Chand, PW3-MHC Raj Kumar, PW4-Superintendent of Police, Subhash Yadav, PW5-HC Ram Avtar and PW6-Inspector Wazir Singh.

5. Statement of accused under Section 313 Cr.P.C. was recorded in which, all incriminating evidence was put to him, which he denied and

pleaded innocence. In his defence evidence, the accused examined DW1-Constable Jasbir Singh and DW2-Ex.-Sarpanch Ved Singh and also tendered into evidence some documents.

6. Learned trial Court concluded that prosecution had failed to prove its case against the accused beyond reasonable doubt and acquitted the accused of the offences in the present case.

7. Aggrieved of the said decision, present appeal has been filed by the appellant-State challenging acquittal of the accused Karan Singh @ Kuku.

8. Learned counsel for the appellant-State has vehemently contended that learned trial Court has failed to appreciate the fact that recovery of the contraband from the possession of the accused was effected after following proper procedure as prescribed under the Act. The total quantity of 7 Kgs of Charas was recovered from the accused and such a huge quantity of contraband cannot be planted. Learned trial Court had wrongly held that there are material discrepancies in the statement of the prosecution witnesses. However, as the incident had occurred on 30.12.1998 and the testimony of the prosecution witnesses was recorded in the year 2002-03. So, by the passage of time, minor discrepancies in the statements of prosecution witnesses are bound to occur and there was sufficient evidence available on record to convict the accused/ respondent. Though Ved Singh Ex-Sarpanch was associated during the search, the said witness was given up being won over by the accused. No other independent witness was associated as no one was ready to join the proceedings and has prayed that present appeal be allowed, impugned judgment dated 27.02.2003 be set aside and accused be convicted for the offences as

charged with and be punished in accordance with law.

9. On the other hand, learned counsel for the respondent stated that there were material discrepancies in the case of the prosecution and non compliance of mandatory provisions of Sections of NDPS Act and as such, trial Court has rightly acquitted the accused regarding the charge framed against him.

10. We have heard learned counsel for the appellant-State and have also perused the record.

11. After having heard learned counsel for the appellant-State and having perused the judgment as well as the other relevant record, we are of the considered opinion that the prosecution was indeed not able to prove its case against the accused beyond the shadow of reasonable doubt and that learned trial Court has correctly acquitted him of the charges framed against him.

12. It is a settled position that an order of acquittal is not to be interfered with lightly because presumption of innocence of the accused is further strengthened by acquittal. Interference is called for only under compelling circumstances, where impugned findings are perverse, unreasonable and convincing material on record has been ignored unjustifiably by the trial Court. Reference in this regard can be made to judgments of Hon'ble the Supreme Court in '*Mahamadkhan Nathekhan vs. State of Gujarat*' 2014 (14) SCC 589 and *Mallappa and others Vs. State of Karnataka*, 2024 AIR (SC) 1252.

13. NDPS Act provides for very stringent punishment in case the accused is found to have committed an offence under the same, so several safeguards have been provided under the Act, compliance of which is

mandatory. In the light of above, it is to be examined whether learned trial Court correctly concluded that prosecution could not prove its case beyond the shadow of reasonable doubt regarding recovery of contraband in question from conscious possession of accused persons.

14. The perusal of the case file and the evidence available on record shows that the prosecution has miserably failed to prove the charges against the accused beyond all shadows of reasonable doubt. There were material discrepancies in the statements of the prosecution witnesses with regard to the recovery and other material aspects and only one independent witness Ved Singh Ex-Sarpanch was joined in the investigation. However, the said witness was given up by the prosecution being won over by the accused. The said Ved Parkash, however stepped into the witness box as DW2 and specifically deposed that nothing was recovered from the possession of the accused and did not support the prosecution case.

15. After going through the evidence available on record, learned trial Court has rightly held that CFSL Form was not prepared at the spot and sample seal impressions were not preserved and were not deposited with the MHC of the Police Station with case property and not transported to Director CFSL Madhuban, with samples for comparison of the seal.

16. The seal was not handed over to independent witness Ved Singh Ex-Sarpanch, who was allegedly present at the time of recovery.

17. Even documents prepared on the spot were having FIR number with same pen and ink which shows that FIR was lodged first and thereafter, investigation was conducted. Hence, the investigation appears to be tainted.

18. As per ruqa Ex.PB and recovery memo Ex.PD, three seals of

'WS' and two seals of 'SY' were affixed on the sample parcels, whereas as per FSL report Ex.PJ, there were four seals of 'WS' and one seal of 'SY' on the parcels. Hence, it creates doubt that samples were sent in intact condition to Director FSL Madhuban.

19. The perusal of the statements of the prosecution witnesses reveals that they are contradictory on the material points as they differ regarding time of reaching at the spot, the duration of time for which they had remained at the spot and when ruqa was sent. They also differ that whether people were passing from there or not. These discrepancies assumes more significance when the prosecution case is based only upon the testimony of the official witnesses and the only independent witness joined by the prosecution had not supported the prosecution version.

20. Thus, keeping in view all these discrepancies and snags the trial Court rightly reached at the conclusion that the prosecution witnesses were not successful in bringing home guilt to the accused beyond the reasonable doubt and it become doubtful if the recovery took place in the mode and manner as alleged by the prosecution. So, the accused has been rightly acquitted by giving him the benefit of doubt.

22. In view of the above, this appeal being bereft of any merit is dismissed with impugned judgment dated 27.02.2003 passed by learned trial Court being upheld.

23. Pending applications, if any, also stand disposed of.

(SUKHVINDER KAUR)
JUDGE

(N.S. SHEKHAWAT)
JUDGE

26.11.2025.

Komal Whether speaking/reasoned? : Yes/ No
 Whether reportable? : Yes/ No