



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

108

CRA-D-811-DBA-2004 (O&M)

Date of decision: July 24th, 2025

The State of Punjab

.....Appellant

Versus

Nahar Singh and another

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL
HON'BLE MR. JUSTICE H.S. GREWAL**

Present: Mr. H.S. Deol, Senior Deputy Advocate General, Punjab,
for the appellant.

MANJARI NEHRU KAUL, J.

The instant appeal has been preferred by the State against the judgment dated 16.04.2004 passed by learned Judge, Special Court, Mansa, whereby respondents, Nahar Singh (driver) and Naib Singh (owner of truck No.RJ-20-0237), were acquitted of the charges under Sections 15 and 25 of The Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as 'the NDPS Act'), in FIR No.71 dated 02.07.2001 registered at Police Station Sardulgarh.

2. Mr. Lakhwinder S. Sidhu, Advocate, has entered appearance on behalf of respondent No.1 and filed his power of attorney, which is taken on record.

3. The case of the prosecution in brief is that on 02.07.2001, during a *nakabandi* near Village Ahlupur, truck No.RJ-20-0237 driven by a respondent, Nahar Singh was intercepted. On unloading, 300 bags of cement, 8 bags of poppy husk were allegedly recovered from beneath them. Samples were drawn and sealed on the spot, and the truck along

with the cement and contraband was seized. The Investigating Officer, PW-2 Inspector Baljit Singh, later recorded statements of the witnesses and sent the samples of the seized contraband to the Forensic Science Laboratory (FSL) after a delay of 17 days.

4. The trial Court, after evaluating the evidence and statements, acquitted both the accused, holding that the prosecution had failed to prove its case beyond reasonable doubt.

5. The learned State counsel contended that the learned Special Court failed to appreciate the evidence in its proper perspective. It was argued that minor discrepancies in the statements of witnesses could not overshadow the recovery of 8 bags of poppy straw weighing 240 kilograms from the truck driven by respondent-Nahar Singh and owned by respondent- Naiab Singh. It was further submitted that the delay in sending the samples to the FSL had no bearing on the case of the prosecution, especially since the seals remained intact without any evidence of tampering.

6. On the other hand, learned counsel for respondent No.1 supported the impugned judgment, pointing out serious inconsistencies in the evidence led by prosecution, lack of independent corroboration, and non-compliance with the mandatory provisions of the NDPS Act. It was argued that the recovery itself was doubtful due to conflicting versions of the police witnesses and significant procedural lapses, including the improper handling of the case property as well as unexplained custody of seals.

7. We have heard learned counsel for the parties and perused the relevant material on record.

8. The following points arise for determination:

- (i) Whether the prosecution has proved the recovery of contraband from the truck beyond reasonable doubt?
- (ii) Whether the mandatory provisions of the NDPS Act were duly complied with?
- (iii) Whether the learned Special Court's judgment suffers from perversity or illegality warranting interference?

9. After carefully considering the rival submissions and scrutinizing the record, we find no ground to interfere with the well-reasoned judgment of the learned Special Court. The reasons are as follows:

- (i) PW-2 Inspector Baljit Singh stated that the Police Station was to the eastern side of the place of recovery, whereas PW-3 DSP Narinder Pal Singh and PW-4 ASI Manjeet Singh stated that it was towards the western side. Such contradictory evidence about the most basic topographical detail casts serious doubt on the veracity of the presence of the witnesses and their account of the recovery.
- (ii) Preet Singh, the alleged independent witness and the custodian of the seal, was not examined. There is no evidence of when or whether the seal was returned to the Investigating Officer. This omission strikes at the root of the chain of custody, especially since the seal allegedly remained with PW-2 Inspector Baljit Singh-the very person conducting the investigation and seizure.
- (iii) The samples were sent to the FSL only on 19.07.2001, 17 days after the alleged seizure. The prosecution has not explained

who had the custody of the sealed parcels during this period, particularly during the absence of PW-2 Inspector Baljit Singh (as shown in Exhibit D-4 and Exhibit D-5). This gap severely compromises the integrity of the samples.

(iv) The prosecution claimed the samples were numbered from 1/A to 8/A and 1/B to 8/B, but the FSL report (Exhibit P-Q) notes that the samples were received without such markings. This mismatch in identification further breaks the evidentiary chain.

(v) The truck was loaded with 300 bags of cement under a valid receipt of goods from Birla Corporation Limited, transported over a long distance. There is no evidence that respondent-Nahar Singh, as driver, had knowledge of any concealed contraband. The prosecution did not examine any official of Birla Corporation Limited or the consignee to prove that the driver was involved in the alleged concealment.

(vi) The prosecution failed to produce the case property during the cross-examination of key witnesses, including PW-3 DSP Narinder Pal Singh. The law mandates production of the case property for proper identification and scrutiny at all relevant stages, and this lapse further weakens the case of the prosecution

(vii) The NDPS Act provides safeguards such as double sealing of seized narcotics to prevent tampering. Here, only one seal was used, which remained under the control of the Investigating Officer. This is a significant procedural irregularity.

10. Given the cumulative effect of the above discrepancies, procedural lapses, and missing link evidence, the prosecution miserably failed to prove its case beyond reasonable doubt. The learned Special

Court correctly extended the benefit of doubt to the accused-respondents.

11. This Court, therefore, finds that the impugned judgment is well founded, based on a careful appreciation of evidence and the law. The case of the prosecution suffers from serious infirmities-including contradictions in the testimonies of the witnesses, compromised chain of custody, delay in dispatch of samples, and non-compliance with mandatory provisions of the NDPS Act. No perversity or illegality in the impugned judgment can be found so as to warrant any interference. Accordingly, the instant appeal being devoid of merit, stands dismissed and the judgment passed by the learned Judge, Special Court, Mansa, is upheld.

(MANJARI NEHRU KAUL)
JUDGE

July 24th, 2025
Puneet

(H.S. GREWAL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No