



CRA-S-45-SB-2008

1

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

312

CRA-S-45-SB-2008

Date of Decision: 10.11.2025

BHINDER SINGH**... APPELLANT****VERSUS****STATE OF PUNJAB****... RESPONDENT****CORAM : HON'BLE MR. JUSTICE H.S.GREWAL**

Present:- Mr. C.L.Verma, Advocate for the appellant.

Mr. Rishabh Singla, AAG, Punjab.

H.S. Grewal, J.(Oral)

1. This appeal has been filed against the judgment of conviction dated 18.12.2007 and order of sentence dated 19.12.2007 passed by the learned Judge, Special Court, Ludhiana whereby the appellant was convicted under Section 15 of Narcotics Drugs and Psychotropic Substances Act, 1985 (for short 'the Act') to undergo RI for 10 years, to pay a fine of Rs. One lac and in default of payment of fine, the convict shall further undergo RI for one year.

2. Brief facts of the case are that on 03.12.2002, SI/SHO Balbir Singh along with other police officials was proceeding from Mullanpur Pandori towards village Mandiani in connection with mobile *nakabandi*. While the police party was moving from Mandiani towards village Mor Karima, at about 5:25 P.M., they reached near a culvert on a *kacha rasta* leading from the canal

**CRA-S-45-SB-2008****2**

minor to village Mandiani. There, the appellant was found sitting on three bags near the canal bank, with another white another plastic bag (bora) was lying nearby. On seeing the police vehicle, the appellant tried to escape but SI Balbir Singh, the Investigating Officer (I.O.), stopped the vehicle and apprehended him with the help of other officials. After inquiry, the accused disclosed his identity. The IO noticed that the accused was sitting on three stitched bags and one open plastic bora was lying next to him. On checking these bags, poppy husk was recovered. A one-litre tin container used for measuring was also found inside the open bora. The accused failed to produce any permit or licence for possessing the contraband. The IO marked the plastic bora as B-1 and the three bags as B-2 to B-4. Two samples of 250 grams each were taken from every bag and sealed as S1/S1 to S4/S4. The remaining poppy husk in each of the three bags weighed 33 kilograms, while the open plastic bora contained 16 kilograms. All bags were properly sealed on the spot.

3. In order to prove its case, prosecution examined PW SI Pardeep Sandhu, PW2 Constable Jarnail Singh, PW3 HC Jagdish Singh, PW4 ASI Jasmer Singh, PW5 DSP J.S.Khera, PW6 SI Balbir Singh, PW7 ASI jagtar Singh.

4. After closing the prosecution evidence, the statement of the appellant under Section 313 Cr.P.C had been recorded wherein he denied the allegations and claimed himself to be innocent. He pleaded that he was picked up from his house for making some inquiry from him in the presence of some respectable of the village and nothing was recovered from his possession but later on, he was falsely implicated in this case. In defence evidence, the



appellant examined DWI Jagir Singh, DW2 Narinder Pal Singh, DW3 HC Sube Singh.

5. On consideration of the aforesaid evidence led by both the parties, the trial Court convicted and sentenced the appellant under Section 15 of the Act. Hence, this appeal.

6. Learned counsel for the appellant argued that the trial Court had erred in convicting the appellant inasmuch as there is no incriminating material which would connect the appellant with the commission of offence. The appellant has been falsely implicated in the present case because there is no evidence to show that he was in conscious possession of the contraband and he is only alleged to be merely sitting on the bags which cannot be construed as conscious possession. He further submits that the alleged recovery was made from an open place which was accessible to all, and as such, recovery of contraband cannot be attributed to the appellant/accused. He further submits that no vehicle was recovered from the spot and it is impossible for the appellant to have transported all four bags to the spot by himself. Hence, the appellant deserves to be acquitted on these grounds. In support of his contention, he relied upon the judgments of this Court in case titled as *Baldev Singh vs. State of Punjab*; 2005(1) RCR (Criminal) 823, *Raj Kumar vs. State of Punjab*; 2005(1) RCR(Criminal) 70, *Bhola Singh vs. State of Punjab*; 2005(2) RCR (Criminal) 520, *Tarlok Singh Vs. State of Punjab*; 2006(4) RCR (Criminal) 350.

7. On the other hand, learned State counsel while rebutting the submissions advanced by learned counsel for the appellant contends that the



recovery allegedly effected in this case is heavy i.e. three bags of poppy husk and there cannot be any reason for the prosecution of falsely implicate the appellant. The appellant was found sitting on the bags, therefore, the concision possession is to be presumed under the Act and he cannot escape from his liability. He, therefore, prays for dismissal of the appeal.

8. I have heard learned counsel for the parties and perused the entire record.

9. It is apparent that the prosecution has successfully established its case with the testimonies of its witnesses, especially the Investigating Officer and the independent Gazetted Officer to the effect that total quantity of 117 kilograms of poppy husk was recovered from the spot, which is *commercial quantity*. The recovery was not made from an unclear or unattended spot. The appellant was found sitting directly on three bags, while a fourth open bag was lying immediately next to him. The presence of a measuring tin (dibba) inside the open bag further supports that the bags were in active use and under the control of the person present there.

10. The place of recovery i.e. a secluded kacha path near the canal bank, is not an ordinary place where any reasonable person would sit casually or rest without purpose. There is absolutely nothing on record to suggest that the location was visited by villagers or passersby. Therefore, the possibility that the bags were left there by some unknown person and the appellant was innocently present at the spot is not possible. The prosecution witnesses consistently stated that no other person was present in the vicinity, and the defence has not produced any evidence to contradict this fact.



11. The conduct of the appellant at the time of the arrival of the police party is also highly relevant. The evidence clearly shows that upon seeing the police, the appellant attempted to escape, and he was apprehended shortly thereafter. It is also well settled that an attempt to flee is a strong circumstance pointing towards a guilty conscience. Such behaviour cannot be ignored and provides significant corroboration to the prosecution case regarding conscious possession.

12. It is also noticeable that all procedural requirements under the NDPS Act were complied with. A Gazetted Officer was present at the time of search and seizure; proper consent memos were prepared; the bags were sealed with separate seals; and the appellant, along with the case property and samples, was produced before the Magistrate without any delay. The sealing, custody, and dispatch of samples to the FSL were handled in a transparent and secure manner. The seal impressions were found intact at every stage. The FSL report confirms that the recovered substance was poppy husk. Thus, the chain of possession of contraband is complete, unbroken, and free from any suspicion.

13. The defence plea that the appellant was picked up from his residence is wholly baseless. No complaint was lodged by the appellant or his family, no DDR entry was ever made, and no medical evidence was produced to support this submission. The defence witnesses examined by the appellant admit that they did not approach any superior police officer or any authority to protest the alleged illegal detention.



14. The minor inconsistencies pointed out in the statements of prosecution witnesses are natural occurring due to lapse of time and do not affect the genesis of the prosecution case.
15. Keeping in view the totality of the circumstances, the huge quantity of narcotic substance recovered, the place and manner of recovery and the conduct of the appellant, no ground is made out to interfere with the findings recorded by the trial Court.
16. Consequently, the appeal is dismissed and the judgment of conviction dated 18.12.2007 and order of sentence dated 19.12.2007 passed by the learned Judge, Special Court, Ludhiana, are hereby affirmed.
17. The Chief Judicial Magistrate, Ludhiana/Trial Court is directed to take necessary steps for securing the custody of the appellant to ensure that he undergoes the remaining part of the sentence, if any, in accordance with law.
18. Pending application, if any, shall also stand disposed of.

10.11.2025
renu

(H.S.GREWAL)
JUDGE

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