

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

**CRA-S No.3084-SB of 2011 (O&M)
Reserved on: 09.07.2025**

Pronounced on: 23.07.2025

Sarabjit Kaur

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE H.S. GREWAL

Present: Mr. C.L. Verma, Advocate for the petitioner.

Mr. Hardeep Singh Wadhwa, DAG, Punjab.

H.S. GREWAL J. (Oral)

The present appeal has been filed seeking setting aside of judgment and order dated 28.10.2011 passed by learned Judge, Special Court, S.B.S. Nagar, (Nawanshahr) whereby the appellant has been convicted and sentenced to undergo rigorous imprisonment for 03 years and to pay a fine of Rs.3000/- under Section 21 of the NDPS Act, 1985 and in default of payment of fine, to further undergo rigorous imprisonment for a period of 02 months for having in possession of 262 grams of smack.

2. The case of the prosecution is that while patrolling, when the police party had reached the Langeri turning point of Village Lakhpur, then a woman was seen coming on her left side from village Langeri. On seeing the police party, she got perplexed and turned back. Thereafter, on suspicion she was apprehended and on being asked, she disclosed her name as Sarabjit Kaur, wife of Darwara @ Billa resident of Village Lakhpur, P.S. Banga. Further, after being informed about her legal right to get search conducted in the presence of a Gazetted Officer or a Magistrate, gave her consent and her purse was searched from which 262 grams

of smack wrapped in a polythene bag was recovered. Thereafter, extracting 02 samples of 02 grams each, rest of the contraband i.e. 258 grams was separated and sealed and the appellant was arrested.

3. In order to prove the prosecution case, PW-1 H.C.-Sukhbir Lal was examined who was the attesting witness and he proved the consent memo as well as specimen seal. SI-Raj Kumar was examined as PW-2 and HC-Jarnail Singh was examined as PW-3. Both the witnesses also proved the contents of the FIR as well as the recovery. ASI-Lakhvir Singh was examined as PW-4 who had prepared the challan against the appellant after completion of investigation and on receiving the reports of the Chemical Examiner. ASI-Mohinder Singh was examined as PW-5 who was the Investigating Officer and had proved the case of prosecution along with the link evidence. HC-Harjit Singh was examined as PW-6 who had delivered the sample to the Chemical Examiner and hence proved that the link samples were in sealed condition and were delivered in sealed condition hereby proving the link evidence.

4. After recording the statements of accused under Section 313 Cr.P.C., the appellant/ accused examined DW1-Tarsem Lal, Head Constable to prove on record FIR No.236 dated 25.09.2006 under Section 7, 13(2) of the P.C. Act registered at Police Station Banga, District Nawanshahr.

5. I have gone through the orders as well as record of the case and after examining the evidence on record, no infirmity with the findings of the trial Court with regard to conviction of the appellant, has been found. The argument of learned counsel for the appellant that the recovery was of the actual compound that only came to be of 131.247 grams is also not maintainable in view of notification dated 18.11.2009 which has superseded the earlier notification dated 19.10.2001 whereby the entire quantity was to be considered and not only the extract of the relevant compound. Although the trial Court has held that the

notification dated 18.11.2009 could not be applied retrospectively and therefore, he has only considered the accused to be in conscious possession on 131.47 grams of smack, therefore, bringing the quantity of the contraband, as being not commercial.

6. Learned counsel for the appellant has argued that the sentence awarded is on the excessive side.

7. Learned counsel for the State by way of filing of custody certificate has brought to the notice of this Court that the appellant has been involved in 05 more cases under the NDPS Act, 1985. Even after her conviction, she has involved herself in an FIR No.24 dated 13.03.2015 under Sections 21, 22 of NDPS Act, 1985 at Police Station Sadar Banga whereby she was sentenced to undergo Rigorous Imprisonment for a period of 10 years alongwith payment of fine of Rs.1000/-.

8. Keeping in view the conduct of the present appellant, this Court finds no ground to reduce the sentence of the appellant. Resultantly, the judgment of conviction and order of sentence dated 28.10.2011 passed by learned Judge, Special Court, S.B.S. Nagar, (Nawanshahr) is accordingly, upheld and appeal preferred by appellant /convict is accordingly **dismissed**. The appellant was however granted suspension of sentence by this Court vide order dated 13.01.2012, however she is directed to surrender before the Court concerned, within one month from today, failing which learned Chief Judicial Magistrate concerned would issue warrants of arrest to secure her presence and send her to jail to undergo the remaining sentence. Necessary intimation be sent to the Court for information and compliance.

9. The appeal is accordingly, dismissed. Pending application(s), if any,
also stands disposed of

Pronounced on: 23.07.2025		(H.S. GREWAL)
<i>Sonia Puri</i>		JUDGE
<i>Whether speaking/ reasoned</i>	:	<i>Yes / No</i>
<i>Whether reportable</i>	:	<i>Yes / No</i>