



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

306

**CRA-S-397-2019****Date of decision: 21.07.2025**

Rajpal Singh Alias Balbir Singh

.....Appellant

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. A.S. Shergill, Advocate  
for the appellant.

Mr. Amit Rana, Sr. DAG, Punjab.

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**MANJARI NEHRU KAUL, J.**

1. The instant appeal has been preferred by the appellant challenging the judgement of conviction and order of sentence both dated 08.01.2019 passed by learned Additional Sessions Judge, Mansa, in case FIR No.76 dated 22.09.2012 under Sections 15, 25, 61, 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Bareta, District Mansa, whereby the appellant was convicted under Section 15(b) of the NDPS Act and sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of Rs.5,000/-.

2. The prosecution's case in brief may be noticed as thus:

3. On 22.09.2012, a police party headed by ASI Parshotam Singh was conducting routine checking near the Canal Minor bridge in the area of village Bhawa. An independent witness, Bhola Singh son of Gurdev Singh, was associated at the spot. At about that time, an Indica



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car bearing registration No.DL-8CF-8985 approached from the direction of Babanpur and was signalled to stop. The vehicle halted about 15 yards before the *naka*, and three persons exited the vehicle and attempted to flee. The police managed to apprehend one person, who disclosed his identity as Rajpal Singh alias Balbir Singh (appellant), while the two others managed to escape.

4. Upon search of the car, a plastic bag containing poppy husk was found lying openly on the rear seat. A sample of 100 grams was drawn from the contraband and sealed separately, and the remaining quantity, on weighment, came out to be 30 kgs, which was sealed as bulk parcel. Seals bearing the impression 'PS' were affixed by the investigating officer. Recovery memos and seal impression chits were prepared. The seal was handed over to HC Sukhpal Singh. A *ruqa* was sent to the police station through HC Gurdeep Singh, on the basis of which formal FIR Ex.PK was registered.

5. On return to the police station, the investigating officer ASI Parshotam Singh produced the case property, accused and witnesses before the SHO/SI Chanan Singh, who verified and affixed his own seal 'CS'. The contraband and samples were duly produced before the Magistrate on the next day and were deposited in the FSL through Head Constable Gurdeep Singh. The FSL report Ex.PF confirmed the sample to be that of poppy husk.

6. Upon completion of investigation, the appellant was charged under Section 15 of the NDPS Act to which he pleaded not guilty and claimed trial.



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7. In order to substantiate its allegations, the prosecution examined four witnesses including PW-1 Chanan Singh and PW-2 ASI Parshotam Singh.

8. On completion of the prosecution evidence, all the incriminating material was put to the accused under Section 313 of the Cr.P.C. The accused denied the allegations of prosecution and asserted that they were innocent; no incriminating material much less poppy husk was recovered from them. In defence, the accused examined DW-1 Bhola Singh and thereafter closed their evidence.

9. Learned counsel for the appellant has assailed the judgement of conviction primarily on the following grounds:-

(i) That the appellant was falsely implicated due to enmity and the recovery itself was fabricated by the police in connivance with interested parties.

(ii) That the vehicle in question was not owned by the appellant and no effort was made by the police to trace its registered owner, thereby creating doubt regarding the prosecution version.

(iii) That provisions of Section 50 of the NDPS Act was not complied with, and no option was given to the appellant for being searched before a Magistrate or a Gazetted Officer.

(iv) That only one sample of 100 grams was drawn instead of two, violating the standing instructions regarding sampling.

(v) That the independent witness Bhola Singh was not examined by the prosecution, and instead appeared as DW-1 to discredit the prosecution version. His testimony, it was argued,



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completely shattered the prosecution story.

(vi) That there was a delay of four days in sending the sample to the FSL, thereby raising doubts about the sanctity and integrity of the case property.

(vii) That the investigating officer himself was the complainant, and the entire investigations stands vitiated on that account.

(viii) Reliance was placed on judgment of Hon'ble the Supreme Court in ***Sanjeet Kumar Singh @ Munna Kumar Singh Vs. State of Chhattisgarh, Criminal Appeal No.871 of 2021 decided on 30.08.2022***, to contend that in the absence of any support from the independent witness, benefit of doubt must accrue to the accused.

10. *Per contra*, learned counsel for the State, while supporting the judgement of conviction, submitted that the prosecution had duly proved its case beyond all reasonable doubt. It was urged that:

(i) the appellant was apprehended on the spot while attempting to flee from the car in which the contraband was found lying in plain view;

(ii) the attempt by the three occupants of the car, including the appellant, to escape upon being signalled to stop, indicates conscious possession;

(iii) the signatures of Bhola Singh are present on multiple recovery documents which were prepared at the spot. His subsequent turnabout as a defence witness is clearly an afterthought;

(iv) the FSL report Ex.PF confirmed the contents of the sample as poppy husk;



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(v) there were no major discrepancies in the testimony of the prosecution witnesses;

(vi) the recovery of the contraband being from a vehicle, provisions of Section 50 of the NDPS Act were not applicable.

11. I have heard learned counsel for the parties and perused the relevant material on record.

12. This Court finds no merit in the present appeal for the following reasons.

13. The appellant was apprehended at the spot while attempting to escape from the car, along with two others. The contraband—30 kgs of poppy husk—was found in a plastic bag on the rear seat, visible to the naked eye. The conduct of the accused in attempting to flee upon seeing the police, and being apprehended at the spot, strongly points to his knowledge and conscious possession of the contraband. The contention that the appellant was not the owner of the vehicle is irrelevant. Ownership of the vehicle is not a prerequisite for proving possession under the NDPS Act, especially where incriminating conduct accompanies the seizure.

14. DW-1 Bhola Singh was initially associated as an independent witness. Although he later deposed as a defence witness, his testimony lacks any convincing explanation for his change in stance. DW-1 Bhola Singh admitted that he regularly visited the police station in connection with the Truck Union and vaguely stated that his signatures were taken on blank papers when he had gone to drink water—without even disclosing the date or circumstances. He did not deny



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his signatures on recovery memos, Ex.PH, Ex.PM and Ex.PN, nor did he lodge any complaint at that time. This clearly proves that his deposition was an afterthought, and the prosecution rightly relied on documentary evidence bearing his attestation contemporaneously prepared at the scene.

15. The recovery in question was from a car and not from the personal search of the accused. It is no longer *res integra* that the provisions of Section 50 of the NDPS Act apply only to personal search and not to search of vehicles or containers. Thus, the plea of non-compliance of Section 50 of the NDPS Act is wholly misconceived.

16. While it is true that the seal was not handed over to the independent witness, what is material is the integrity of the sample reaching the FSL, which in the present case is confirmed by the report of the Chemical Examiner Ex.PF. The case property was received in an intact condition, including the seals which were intact and no evidence of tampering has been brought on record. The lapse in not preparing two samples is, at best, an irregularity, and not a fatal illegality in absence of prejudice caused to the accused.

17. The sample was collected on 22.09.2012 and deposited in the FSL on 27.09.2012. The chain of custody has been duly proved through the testimonies of official witnesses and the production of memos and reports. No evidence has been led to suggest any tampering or mishandling of the case property. The delay of four days only in sending the sample to the FSL stands satisfactorily explained and is not such as to vitiate the case of the prosecution.



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18. The argument that the investigating officer being the complainant renders the investigation biased is also without merit. Unless there is specific material showing prejudice, investigation by a police officer who is also the complainant is not *per se* illegal. The defence has failed to prove any *malafides* or bias on the part of the investigating officer. It would be relevant to refer to the following observations in the said regard made by the Hon'ble Supreme Court in ***State by Inspector of Police, NIB, Madurai, Tamil Nadu Vs.***

***Rajangam : AIRONLINE 2009 SC 566 : -***

*"9. The learned counsel appearing for the accused submitted that the controversy involved in this case is no longer res integra. In Megna Singh v. State of Haryana, (1996) 11 SCC 709., this Court has taken a categorical view that the officer who arrested the accused should not have proceeded with the investigation of the case. The relevant paragraph reads as under:*

*"4. .... We have also noted another disturbing feature in this case. P.W.3, Sri Chand, Head Constable arrested the accused and on search being conducted by him a pistol and the cartridges were recovered from the accused. It was on his complaint a formal first information report was lodged and the case was initiated. He being complainant should not have proceeded with the investigation of the case. But it appears to us that he was not only the complainant in the case but he carried on with the investigation and examined witnesses under Section 161 Cr.P.C. Such practice, to say the least, should not be resorted to so that there may not be any occasion to suspect fair and impartial investigation."*

*10. The ratio of Megna's case has been followed by other cases. In another case in Balasundaran v. State , 1999 (113) ELT 785 (Mad), in para 16, the Madras High Court took the same view. The relevant portion reads as under:-*

*"16. Learned Counsel for the appellants also stated that P.W. 5 being the Inspector of Police who was present at the time of search and he was the investigating officer and as such it is fatal to the case of the prosecution. P.W. 5, according to the prosecution, was present with PWs 3 and 4 at the time of search. In fact, P.W. 5 alone took up*



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*investigation in the case and he had examined the witnesses. No doubt the successor to P.W. 5 alone had filed the charge sheet. But there is no material to show that he had examined any other witness. It therefore follows that P.W. 5 was the person who really investigated the case. P.W. 5 was the person who had searched the appellants in question and he being the investigation officer, certainly it is not proper and correct. The investigation ought to have been done by any other investigating agency. On this score also, the investigation is bound to suffer and as such the entire proceedings will be vitiated.”*

19. In view of the foregoing discussion, this Court finds that the learned Trial Court has rightly appreciated the evidence on record. The prosecution has successfully proved the guilt of the appellant beyond reasonable doubt. No material illegality, infirmity or perversity is found in the impugned judgement warranting interference.

20. The instant petition stands dismissed accordingly.

21. The learned Trial Court is directed to take necessary steps for taking the appellant into custody for serving out his remaining sentence.

**21.07.2025**

Vinay

**(MANJARI NEHRU KAUL)  
JUDGE**

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