



CRM-A-137-2021 (O&M) 1

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

CRM-A-137-2021 (O&M)

Date of Decision: 08.08.2025

STATE OF HARYANA

..... Petitioner

Versus

NARESH AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Amrik Narwal, DAG, Haryana.

YASHVIR SINGH RATHOR, J. (Oral)**CRM-28764-2021**

The present application is for condonation of delay of 41 days in filing the appeal.

Keeping in view the averments made in the application, the same is allowed and delay is condoned.

CM stands disposed of.

CRM-A-137-2021

1. This is an application under Section 378 (3) of Cr.P.C. (as amended upto date) for grant of leave to appeal against the judgment of acquittal dated 15.11.2019 passed by the Ld. Additional Sessions Judge, Hisar.

2. Short reply by way of affidavit dated 06.08.2025 of Devender Nain HPS, Deputy Superintendent of Police, Narnaund, filed on behalf of petitioner-State is taken on record. Registry is directed to tag the same at an appropriate place.

3. This application under Section 378 (3) of Cr.P.C. (as amended upto date) for grant of leave to appeal is directed against the judgment dated 15.11.2019 passed by the Ld. Additional Sessions Judge, Hisar vide which respondents were acquitted of the charge under Sections



20 and 27A of NDPS Act. Upon notice, respondent No.2 appeared and his counsel had made a statement that main accused namely Naresh Kumar- respondent No.1 has died during the pendency of the present application seeking leave to appeal.

4. Today, status report has been filed by the State counsel in which it has been admitted that respondent No.1 has died and as such appeal against respondent No.1 has abated.

5. I have heard Ld. State counsel and gone through the record annexed with application.

6. As per prosecution case, the contraband was allegedly recovered from the possession of respondent No.1 who has died and the recovery was held to be doubtful by the Ld. Trial Court. Respondent No.2 was nominated as an accused on the basis of statement of Naresh Kumar- respondent No.1 wherein he disclosed that he had purchased the contraband from respondent No.2 and thereafter the offence under Section 27A was added. Ld. Trial Court while dealing with the case against respondent No.2-Sarup Singh observed as under:

“As far as the allegations against accused Sarup Singh is concerned, he was not arrested from the place of occurrence along with alleged contraband. The recovery of Sulpha from accused Naresh is itself doubtful and suspicious. There is no concrete evidence against the accused Sarup Singh except the disclosure statement suffered by the accused Naresh, Ex.P-14. The Honourable Supreme Court held in Lohit Kaushal Versus State of Haryana, (2009) 17 SCC 106, that the disclosure statement recorded by the police of a co-accused in police custody can be used to a limited extent as per Section 27 of the Evidence Act only.



Since, no recovery was effected from accused Sarup Singh, he cannot be convicted on the basis of disclosure statement of Naresh alone. The allegations against the accused Sarup Singh to the effect that he sold Sulpha to accused Naresh are not proved by the prosecution, by any evidence, whatsoever. The Point for Determination - II, is also decided in favour of the accused.”

7. The aforesaid conclusions arrived at by Ld. Trial Court while acquitting respondent No.2, in my opinion, do not suffer from any patent illegality or irregularity particularly because no recovery was effected from him and his name had cropped up in the disclosure statement of main accused namely- Naresh Kumar. Thereafter, no recovery was effected from accused Sarup Singh. As such Ld. Trial Court right observed that he cannot be convicted on the basis of disclosure statement of co-accused only. Besides this, no cogent and convincing evidence was also led to establish that the said Sulpha was sold to accused- Naresh Kumar by respondent No.2 and accordingly, I concur with the findings arrived at by Ld. Trial Court while acquitting respondent No.2-Sarup Singh. Impugned judgment thus does not suffer from any patent illegality and perversity so as to call for any interference.

8. As such, no ground is made out to grant leave to appeal and accordingly, present application is ordered to be dismissed.

10. Pending misc. application (s), if any, shall also stand disposed of.

(YASHVIR SINGH RATHOR)
JUDGE

08.08.2025

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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No