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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S No.2454-SB of 2004
Date of decision: September 16th, 2025

Surjit Singh alias Meingal Singh

.....Appellant

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sachin Sharma, Advocate (*Amicus Curiae*)
for the appellant.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J.

This appeal is directed against the judgment of conviction and order of sentence dated 18.11.2004 passed by learned Judge, Special Court, Ludhiana, whereby appellant-Surjit Singh alias Meingal Singh-was convicted for an offence under Section 15 of The Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as ‘the NDPS Act’) and sentenced as follows:

Offence under Section	Period of sentence	Fine imposed	Period of sentence in default of payment of fine
15 of the NDPS Act, 1985.	RI for ten years	₹1 lakh	R.I. for six months

2. The appellant challenges his conviction and sentence, urging that the findings of the learned trial Court rest upon infirm evidence, non-compliance with mandatory provisions of law, and disregard of material

evidence led by the defence.

3. The case of the prosecution, may be briefly recounted.

4. On 15.04.2002, ASI Teja Singh (PW-4), accompanied by other police officials, was present near Village Kalkh in a Government jeep bearing registration No.PB-25-6798. Around 7:15 AM, a truck bearing registration No.PB-12B-1497, approached from Village Majri. The driver disclosed his name as Surjit Singh alias Meinga Singh.

5. On search of the toolbox of the said truck, two bags containing poppy husk were recovered. From each bag, two samples of 250 grams each were drawn and sealed with the seal “TS”, while the remaining contents, approximately 30 kilograms per bag, were separately sealed. The seal after use was handed over to ASI Dalip Kumar (PW-5).

6. The accused was arrested, and on production before SHO Sikandar Singh (PW-3), the case property was resealed with seal “SS” and deposited in the *Malkhana*. Subsequently, the sample parcels were forwarded to the Forensic Science Laboratory (FSL), Punjab, Chandigarh.

7. After completion of investigation, a report under Section 173 of the Cr.P.C. was submitted, and the accused-appellant (hereinafter referred to as ‘accused’) was sent to trial. The learned Judge, Special Court, Ludhiana, after examining the witnesses and considering the evidence on record, convicted and sentenced him as already noted in the earlier part of this judgment.

8. Learned *Amicus Curiae* for the accused has assailed the conviction, urging that the prosecution case is riddled with legal and factual infirmities. The principal submissions made by the learned *Amicus* are as follows:

(i) The inventory of seized narcotics was prepared by the Investigating Officer himself, rather than by the Station House Officer (SHO), and was not certified by a Magistrate.

(ii) There is no order of the Magistrate authorizing the drawing of samples. The documents relied upon namely, Exhibit PH and Exhibit PH/1, do not bear the signatures of the Magistrate, showing that the samples were not drawn in his presence.

(iii) The FSL, vide communication dated 18.04.2002, noted irregularities in the parcels received. This, coupled with subsequent interpolations in the affidavits of MHC Gulab Singh (Exhibit PA) and MHC Major Singh (Exhibit PB), reveals tampering in the chain of custody.

(iv) The seal after use was not entrusted to an independent witness but remained within police custody. The sanctity of the seal, thus, stood compromised.

(v) DDR entries indicate that samples were dispatched on 18.04.2002, whereas FSL report (Exhibit PJ) records receipt only on 22.04.2002. This unexplained delay of three days fatally undermines the case of the prosecution.

(vi) The witnesses admitted that the contents of the two bags, which were allegedly containing the contraband, were not homogenised before sampling. In absence of such homogenization, the small samples allegedly sent to FSL cannot be deemed representative.

(vii) Despite the recovery having been made at a public place, no effort was made to join any independent witness.

(viii) The accused consistently pleaded false implication owing to political rivalry between Jagdish Singh Garcha and Gurdial Kaur. Even

defence witnesses including DW Magar Singh, deposed in support of this plea. However, the trial Court brushed aside this defence without adequate consideration.

9. Learned *Amicus* argued that on a cumulative basis, the prosecution had miserably failed to establish its case beyond reasonable doubt, and, therefore, the accused was entitled to acquittal.

10. *Per contra*, learned State counsel supported the judgment of conviction. The principal submissions advanced by the learned State counsel are:

(i) The case property was produced before the Magistrate, evidenced by Exhibit PH/1. The absence of the signatures of the Magistrate does not vitiate the proceedings. The law does not mandate that samples must necessarily be drawn in the presence of the Magistrate.

(ii) The objections by the FSL were technical in nature. After rectification, the samples were re-sent and were received with intact seals. FSL report (Exhibit PJ) confirmed presence of poppy husk.

(iii) The affidavits (Exhibit PA and Exhibit PB) clarify safe custody and transfer of *Malkhana* charge between officials. The addition of lines in affidavits was explanatory not interpolative. The fact that FSL ultimately received samples with seals intact shows no tampering

(iv) Law does not require entire contents to be homogenized before sampling. What matters is that representative samples were drawn and duly sealed.

(v) The absence of independent witnesses is not fatal, particularly when official witnesses are otherwise reliable. It is thus urged that the conviction recorded by the learned Judge, Special Court calls for no

interference.

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

12. The NDPS Act prescribes stringent punishments, and hence strict compliance with procedural safeguards is imperative. Section 52A of the NDPS Act mandates preparation of inventory by the SHO and certification by the Magistrate. In the present case, the inventory was admittedly prepared by the Investigating Officer. Neither Exhibit PH nor Exhibit PH/1 bears the signatures of the Magistrate, nor is there any order authorizing drawing of samples. This non-compliance strikes at the root of the prosecution case.

13. The seal was not handed over to any independent witness but remained within police custody. The resealing by the SHO with his own seal does not restore sanctity of the process. Furthermore, the dispatch of samples on 18.04.2002 and their receipt at FSL four days later on 22.04.2002 remains unexplained. The interpolations in Exhibit PA and Exhibit PB reinforce the doubt regarding integrity of the chain of custody.

14. Further, the prosecution witnesses admitted that contraband was not homogenized before samples were drawn. In such circumstances, the representativeness of the samples is doubtful, and the evidentiary value of the FSL report is undermined.

15. No effort was made to associate independent witnesses, despite recovery being effected in a public place. While official testimony cannot be discarded *per se*, in light of other serious lapses, this omission assumes significance. The accused pleaded false implication due to political rivalry. It needs to be emphasized that where lapses in the case of the prosecution

abound, like in the present case, defence evidence must not be discarded lightly. However, the learned trial Court dismissed this plea cursorily, without adequate evaluation. The present case is evidently plagued by infirmities, therefore, the defence version should have been given due weight by the learned Judge, Special Court.

16. In the light of cumulative infirmities-non-compliance with Section 52A of the NDPS Act, doubtful chain of custody, defective sampling, absence of independent witnesses, and a plausible defence of false implication-the prosecution has failed to prove its case against the accused beyond reasonable doubt. Stringent punishment under the NDPS Act casts a heavier duty on prosecution to ensure unimpeachable evidence. That standard is not met here.

17. The appeal is allowed and the judgment of conviction and order of sentence dated 18.11.2004 passed by learned Judge, Special Court, Ludhiana, are hereby set aside. Appellant-Surjit Singh alias Meingal Singh is acquitted of the charge framed against him under Section 15 of the NDPS Act. His bail/surety bonds also stand discharged.

September 16th, 2025

Puneet

(MANJARI NEHRU KAUL)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No