



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 20th August, 2025.
Pronounced on: 7th November, 2025.

+ CRL.L.P. 20/2014

DIRECTORATE OF REVENUE INTELLIGENCEPetitioner
 Through: Mr. Satish Aggarwala, SSC with Mr.
 Gagan Vaswani, Advocate.

Versus

HARPREET SINGH @ JITAR SINGH @ SONU ...Respondent
 Through: Ms. Rajni Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J.:

1. The Directorate of Revenue Intelligence seeks leave under section 378(3) of the Code of Criminal Procedure, 1973¹ to assail judgement of acquittal dated 5th October, 2013 passed by the ASJ/ Special Judge NDPS, South District, Saket Court Complex in Sessions Case No. 51/A/08, registered under Sections 21 and 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985.² By the said order, the ASJ has acquitted the Respondent of the offences under Sections 21(c) and 29 of the NDPS Act.

Factual Background

2. The case of the Prosecution, in brief, is as follows:

2.1. On 14th February, 2008, DRI Officer, K.S. Ratra (PW-4) received specific intelligence that a Sikh man of Afghan origin would arrive in Mansaram Park, Uttam Nagar, Delhi, between 10:00 and 11:00 PM carrying approximately 6 kg of heroin. PW-4 reduced the input to writing (Ex. PW-

¹ "Cr.P.C."

² "NDPS Act"



4/A) and placed it before the superior officer, P. S. Gulati (PW-12), who approved action.

2.2. A DRI team, led by the Investigating Officer,³ Devender Singh (PW-1), reached the location around 9:45 PM, along with public witnesses called from near the area of CGO Complex, Lodhi Road.

2.3. At around 10:30 PM, a Sikh male (the Respondent) was seen walking in one of the lanes, carrying a paper bag. As the team moved to intercept him, he allegedly flung the bag into an adjoining drain. The bag was retrieved and taken into DRI custody. On questioning at the spot, the Respondent admitted that the said bag contained two packets, about 6 kg of heroin, placed in a carry bag bearing a “Lacoste” marking.

2.4. A notice under Section 50 of the NDPS Act (Ex. PW-1/A) was then served, informing the Respondent of his right to be searched before a Magistrate or a Gazetted Officer. In a handwritten response, he is stated to have consented to be searched by DRI officers. He further disclosed that the two packets had been handed over to him by co-accused Erfan near the Hyatt Regency Hotel at about 9:00 PM, for delivery to an African national at Mansaram Park, and that Erfan was to meet him near “M.D. International Hotel” after the hand-over.

2.5. Acting on the disclosure, at about 12:30 AM on 15th February, 2008, the DRI team, accompanied by the Respondent and the two public witnesses, proceeded to Hotel M.D. International. On the Respondent’s pointing out, one Erfan was apprehended outside the hotel and brought, along with the Respondent and the seized articles, to the DRI office. Erfan was also served a notice under Section 50 NDPS Act and opted to be



searched by DRI officials.

2.6. From the paper bag, two grey cotton “*bhansalis*” (cloth pouches), marked A and B, were recovered. *Bhansali* A contained four inner pouches (gross 3.378 kg) and *bhansali* B contained three inner pouches (gross 2.876 kg) total gross 6.254 kg; net weight 5.980 kg. A field test reportedly returned a positive result for heroin. From each *bhansali*, three samples of 5 grams were drawn and sealed (A1-A3 and B1-B3). The residual substance and coverings were separately sealed. Paper slips bearing the DRI seal and signatures of the seizing officer, the accused, and the public witnesses were affixed to all parcels.

2.7. On Erfan’s personal search, his Afghan passport, foreign currency of USD 5,053, and ₹8,500/- were recovered, sealed, and seized. A detailed *panchnama* (Ex. PW-1/C) was prepared and signed by the concerned officers, the accused, and the public witnesses.

2.8. The Respondent, upon being served with summons, is stated to have made a voluntary statement under Section 67 NDPS Act (Ex. PW-1/H), admitting the recovery and arrest, and further stating that he had earlier delivered heroin four times to the same African national near Mansaram Park for USD 200 per delivery at Erfan’s behest. He also stated that the present paper bag had been handed to him by Erfan at around 9:00 PM near Hyatt Regency Hotel.

2.9. Erfan also made a voluntary statement under Section 67, *inter alia*, disclosing that he was staying in Room No. 4, Hotel M.D. International, and that the currency recovered from him represented proceeds of narcotics trafficking.

³ “IO”



2.10. Both accused were arrested on 15th February, 2008, medically examined, and produced before the Magistrate. A search of the Respondent's residence yielded no contraband. A search of Room No. 4 at Hotel M.D. International, allegedly occupied by Erfan, resulted in seizure of USD 80,000. A report under Section 57 NDPS Act (Ex. PW-1/S) was submitted. The CRCL report dated 27th March, 2008 confirmed the samples as *diacetylmorphine* (heroin) with purities of 59.5% and 41.3%. A complaint under Sections 21(c) and 29 NDPS Act was thereafter filed on 16th July, 2008; cognizance was taken the same day.

2.11. Erfan was granted interim bail but failed to surrender upon its expiry, whereafter his case was segregated on account of his absconsion. As regards the present Respondent, the Court found a *prima facie* case under Sections 21(c) and 29 of the NDPS Act and framed charges on 29th March, 2010.

2.12. The Prosecution, in support of their case, examined 17 witnesses:

PW No.	Name	Designation/Affiliation
PW-1	Devender Singh	Investigating Officer of the case
PW-2	N.D. Azad	Senior Intelligence Officer
PW-3	Shiv Raj Singh	Driver of DRI
PW-4	K.S. Ratra	Intelligence officer of DRI
PW-5	S.C. Mathur	Chemical Examiner of CRCL
PW-6	D.B. Sharma	Incharge, Valuable Godown
PW-7	Jung Bahadur Prasad	Tax Assistant of DRI
PW-8	A.K. Sinha	Intelligence Officers of DRI
PW-9	R.N. Singh	
PW-10	Sukhdev Singh	Lab Assistant of CRCL
PW-11	Sanjay Kumar	Senior Tax Assistant of DRI
PW-12	P.S. Gulati	Then, Assistant Directors of DRI
PW-13	Nilank Kumar	
PW-14	R.K. Singh	Nodal Officer of Bharti Cellular Ltd.
PW-15	Niranjan Barik	Employees of Hotel M.D.



PW-16	Ram Lochan Yadav	International
PW-17	Manoj Kumar Paul	

2.13. After the Prosecution's evidence concluded, the Respondent was examined under Section 313 Cr.P.C. He denied the allegations *in toto*, disputed any recovery from his possession, and asserted that he was picked up by DRI officers from outside the Uttam Nagar Bus Terminal, unlawfully detained through the night of 14th-15th February, 2008, and subjected to physical and mental coercion. He alleged he was compelled to sign blank papers and to copy a pre-written statement. He further denied service of any notice under Section 50 NDPS Act and maintained that the purported statement under Section 67 was involuntary and had been promptly retracted. In defence, he examined Dr. Uday Kumar Singh, Medical Officer, DDU Hospital, as DW-1.

2.14. Two individuals, Sandeep Kumar and Rajpal, originally cited as Prosecution witnesses, were later dropped on the footing that they were untraceable or that their addresses were incomplete. During final arguments, however, the defence produced RTI documents indicating that both resided at the very addresses on record. Considering their projected role as public witnesses to the seizure and apprehension, the Trial Court summoned them as court witnesses. Both CW-1 and CW-2 were examined and cross-examined by the prosecution and the defence.

2.15. Upon an appraisal of the entire record and the depositions of both sides, the Trial Court returned a finding of not guilty and, by the impugned judgment, acquitted the Respondent of the offences under Sections 21(c) and 29 of the NDPS Act.

Prosecution's Case



3. Aggrieved by the acquittal of the Respondent, DRI has preferred the present application seeking leave to appeal against the impugned judgement. Mr. Satish Aggarwala, SSC for DRI, urges the following grounds to assail the judgement:

3.1. The impugned judgement is founded on presumptions, conjectures and surmises, rather than sound evaluation of evidence on record. As such, it is unsustainable and liable to be set aside.

3.2. The Trial Court's doubt about the participation of senior officers (PWs-2 and 4) merely because their signatures do not appear on the Section 50 notice is misplaced. Non-signing of a particular document is, at best, a minor procedural lapse and does not efface their presence or role.

3.3. The Trial Court erred in doubting the presence of public witnesses during the raid. The *panchnama*, arrest and test memos carry their particulars and corroborate their association with the proceedings.

3.4. Even assuming the public witnesses resiled, their testimony reflects a partisan attempt to shield the accused. In any case, a conviction can rest on credible official testimony alone; the law does not insist on public corroboration as a *sine qua non*.

3.5. The conclusion that the statement under Section 67 NDPS Act was involuntary lacks evidentiary footing. The record discloses compliance with summons and a written statement; there is no reliable material proving coercion.

3.6. The Trial Court's inference of custodial torture by the DRI officers is unfounded. Dr. Uday Kumar (DW-1) deposed that the injuries could be self-inflicted. The accused persons were also medically examined from RML. The MLC prepared by the said hospital, proved through PW-1, was



available, but was not accorded due weight.

Analysis

4. The pertinent issue is whether leave to appeal is warranted under Section 378(3) CrPC. The governing principles are settled. At the leave stage, the High Court must be satisfied that the acquittal discloses a patent infirmity, such as perversity, manifest illegality, or a glaring misreading/omission of material evidence, so as to justify appellate scrutiny. The mere possibility of an alternative view cannot be the basis for interference with an acquittal. Rather, the Court must be persuaded that the Trial Court has either ignored material evidence, adopted a patently unreasonable view, or drawn conclusions which no court could have arrived at. These principles have been articulated by the Supreme Court in several cases and summarized in ***Prem Kanwar v. State of Rajasthan***,⁴ wherein the Court observed as follows:

“16. The principles which would govern and regulate the hearing of appeal by the High Court against an order of acquittal passed by the trial Court have been set out in innumerable cases of this Court and in Ajit Savant Majagavi v. State of Karnataka (AIR 1997 SC 3255) the following principles have been re- iterated:

- 1. In an appeal against an order of acquittal, the High Court possesses all the powers and nothing less than the powers it possesses while hearing an appeal against an order of conviction.*
- 2. The High Court has the power to reconsider the whole issue, reappraise the evidence and come to its own conclusion and findings in place of the findings recorded by trial Court, if the said findings are against the weight of the evidence on record, or in other words, perverse.*
- 3. Before reversing the finding of acquittal, the High Court has to consider each ground on which the order of acquittal was based and to record its own reasons for not accepting those grounds not subscribing to the view expressed by the trial court that the accused is entitled to acquittal.*
- 4. In reversing the finding of acquittal, the High Court has to keep in view the fact that the presumption of innocence is still available in favour of the*

⁴ (2009) 3 SCC 726.



accused and the same stands fortified and strengthened by the order of acquittal passed in his favour by the trial court.

5. If the High Court on a fresh scrutiny and re-appraisal of the evidence and other material on record, is of the opinion that there is another view which can be reasonably taken, then the view which favours the accused should be adopted.

6. The High Court has also to keep in mind that the trial court had the advantage of looking at the demeanor of witnesses and observing their conduct in the Court especially in the witness box.

7. The High Court has also to keep in mind that even at that stage, the accused was entitled to benefit of doubt. The doubt should be such as a reasonable person would honestly and conscientiously entertain as to the guilt of the accused.

In this respect, the decisions of this Court in Balbir Singh Vs. State of Punjab (AIR 1957 SC 216) Ram Kumar Vs. State of Haryana (AIR 1995 SC 280), Bharwad Jakshibhai Nagjibhai Vs. State of Gujarat (AIR 1995 SC 2505), Hari Chand Vs. State of Delhi (AIR 1996 SC 1477), Raghbir Singh Vs. State of Haryana (JT 2000 (5) SC 21), and Hari Ram Vs. State of Rajasthan (JT 2000 (6) SC 254) may be seen.

17. In Ashok Kumar Vs. State of Rajasthan (AIR 1990 SC 2134) this Court has held as under: "While caution is the watchword, in appeal against acquittal as the trial Judge has occasion to watch demeanour of witnesses interference should not be made merely because a different conclusion could have been arrived at. Prudence demands restraint on mere probability or possibility but in perversity or misreading interference is imperative otherwise existence of power shall be rendered meaningless. In the present case the order of the trial Court is vitiated as part from deciding the case on irrelevant consideration the most serious error of which he was guilty and which rendered the order infirm which could be set aside by the High Court was that he misread the evidence and indulged in conjectural inferences and surmises."

5. In ***Ashok Kumar v. State of Rajasthan***,⁵ the Supreme Court emphasised that prudence must guide appellate interference. It is not the possibility of another conclusion, but the unreasonableness or illegality of the conclusion reached by the trial court that justifies appellate scrutiny. Where the trial court has proceeded on conjecture, surmise, or patent

⁵ (1991) 1 SCC 166.



misreading of material evidence, the High Court is not merely entitled, but duty-bound, to correct the miscarriage of justice.

6. The Prosecution's case rested on two planks: (i) the alleged recovery of 6 kilograms of heroin, and (ii) the purported voluntary statement of the Respondent recorded under Section 67 of the NDPS Act. On a comprehensive appraisal, the Trial Court treated both as unreliable evidentiary anchors.

7. ***Constitution and participation of the raiding team members:*** A basic fracture in the narrative concerns who actually formed and participated in the raiding party. The intelligence report (Ex. PW-4/A) does not record the names of the team members. PWs-1, 2 and 4 gave mutually inconsistent accounts of who was on the spot; no witness supplied a complete, corroborated roll of participants. Although PWs-2 and 4 claimed to be present at apprehension, neither signed the Section 50 notice allegedly served on the Respondent at the spot. PW-2 went so far as to say he could not recall whether Section 50 proceedings occurred in his presence; PW-4 stated the notice was not served in his presence because the Respondent was taken away immediately after apprehension. The absence of their signatures on contemporaneous documents, coupled with these contradictions, reasonably undermines their asserted presence and, by extension, the integrity of the search-and-seizure itself.

8. ***Authenticity of Section 50 notice:*** The Prosecution's version of service of notice under Section 50 NDPS stands on shaky ground. PW-1 (IO) claimed a notice (Ex. PW-1/A) was served "at the spot" at the moment of apprehension. Yet, the notice is a typed document carrying the accused's full personal particulars. No witness speaks to any typing facility at the



scene; those particulars do not feature in the original intelligence input and could only have been known post-apprehension. Confronted in cross-examination, PW-1 attempted to cure the gap by saying a “standby team” brought a typed notice after being alerted. He could not identify any member of this team, say who supplied the particulars, or explain why this crucial fact finds no reflection in the *panchnama* or any contemporaneous record. PWs-2, 4 and 12, said to be involved at various stages, are entirely silent about any standby team. These circumstances cumulatively create a strong inference that the purported notice was not prepared or served at the spot, but was subsequently prepared at the DRI office in an attempt to give retrospective legitimacy to the proceedings.

9. ***Failure to examine public witnesses:*** The Prosecution’s account of associating independent witnesses is entirely unsatisfactory. PW-1 claimed two public witnesses were enlisted from near the DRI office before the raid; However, PWs-2 and 4 are silent about any such association, and the Section 50 notice (Ex. PW-1/A) carries neither name nor signature of a public witness. Although the *panchnama*, arrest memos and test memos recite their presence, the Prosecution did not examine them, citing incomplete addresses. That explanation has collapsed: the Defence demonstrated their availability at the stated addresses, whereupon the Trial Court summoned them as CW-1 and CW-2. Both deposed that they were taken to the DRI office during the day, not to the spot, and were asked to sign blank papers; they denied participating in any raid, visiting Mansaram Park, witnessing seizure, or seeing sampling. They admitted seeing the accused only at the DRI office the next day and recalled merely a small parcel in the office that officers said contained “drugs.” Both witnesses



maintained their stance during cross-examination, wholly discrediting the Prosecution's claim of their participation. Their testimonies, supported by identity documents and RTI disclosures, not only disprove their alleged involvement, but cast serious doubt on the credibility of the entire raid and seizure operation. This deliberate omission and the Prosecution's lack of effort to secure their testimony further suggest possible fabrication or manipulation, striking at the core of the Prosecution's narrative and rendering it unreliable for sustaining a conviction under the stringent provisions of the NDPS Act.

10. The DRI argues that the absence of public witnesses is not, in itself, fatal to the Prosecution's case and conviction can be based on the testimony of official witnesses. However, this principle is usually applied in circumstances where independent witnesses are either unavailable or have not participated in the proceedings.⁶ It is the Prosecution's case that CWs-1 and 2 were witnesses to the alleged seizure and arrest and where thus, cited as Prosecution witnesses. However, they were subsequently dropped on the ground that their addresses were incomplete or that they were untraceable. However, when summoned as Court witnesses at the very same addresses, both of them appeared and unequivocally denied any participation in, or presence at, the alleged recovery proceedings. They further clarified that they had been continuously residing at those addresses and had never received any summons from the Prosecution. The fact that the Prosecution reported them as untraceable despite their continued availability, coupled

⁶ See: Mohd. Naushad v. State (NCT of Delhi), 2023 SCC OnLine SC 784; Kulwinder Singh v. State of Punjab, (2015) 6 SCC 674.



with the absence of prior service of summons on them, casts serious doubt on the fairness of the investigation and suggests possible suppression.

11. ***Coerced confessional statement under Section 67:*** The Prosecution leans on a statement (Ex. PW-1/H) said to have been written by the Respondent pursuant to a summons (Ex. PW-1/G). Two features fatally weaken that reliance. First, the Respondent retracted the statement at the very first opportunity, alleging coercion; DW-1 (Dr. Uday Kumar Singh, DDU Hospital) noted multiple bruises consistent with custodial assault. Secondly, a statement under Section 67 to an empowered NDPS officer (a “police officer” for purposes of the Indian Evidence Act, 1872) is inadmissible as a confession and cannot, by itself, found a conviction.⁷ At best, it may be looked at for limited, non-incriminatory purposes, or for recovery, none of which is shown here. On both counts, voluntariness and admissibility, the Section 67 statement carries no probative weight.

12. ***Lack of specificity in intelligence information:*** The recorded input (Ex. PW-4/A) merely foretold that “a Sikh person of Afghan nationality” would appear “between 2200–2300 hrs in the streets of Mansaram Park, Uttam Nagar” with about 6 kg heroin. No street, landmark, rendezvous point, or surveillance plan was identified. Of the seventeen witnesses examined, only PWs-1, 2 and 4 claimed to have gone to the locality, yet none could specify the exact place where the Respondent was expected or actually stopped; their accounts waver even on basic topography, street name, buildings, lighting, or poles. Vague intelligence does not automatically vitiate an operation; but where the Prosecution’s own witnesses cannot anchor the place and manner of interception with certainty,



and where other safeguards stand compromised, the reliability of the recovery is seriously undermined.

13. ***Inconsistencies in chain of command:*** The genesis document (Ex. PW-4/A) is itself unsettled. PW-4 (K.S. Ratra) said the tip-off came “over phone”, yet the report contains no note of source or mode of receipt. PW-4 also deposed that, as his immediate superior (Sh. K.K. Dhasmana) was unavailable, he placed the information before PW-12 (P.S. Gulati). PW-12, however, stated he instructed Sh. Dhasmana to take steps for surveillance, implying Dhasmana was, in fact, available and acting. The record offers no explanation for this divergence. Adding to the muddle, PW-2 (N.D. Azad) assumed the role of constituting the raiding team even though the intelligence had ostensibly been routed to another officer. Crucially, the Prosecution did not examine Sh. Dhasmana, the one person who could have reconciled these versions. These inconsistencies on who received, vetted, and acted upon the input weaken the provenance of the intelligence and diminish confidence in the downstream search and seizure said to have flowed from it.

14. ***Contradictions regarding the Respondent’s apprehension:*** The Prosecution’s account of the interception is equally infirm. PW-1 asserted that around 10:30 p.m. “one Sikh person” carrying a paper bag was spotted; upon noticing officials he allegedly tossed the bag into a drain, whereafter PW-1 “as well as all the other members of the raiding team” apprehended him and retrieved the bag. PWs-2 and 4 do not support this. PW-2 said he was standing alone elsewhere, did not see any throwing of a bag, and learnt of the apprehension only afterwards; he could not say who actually made the

⁷ Tofan Singh v. State of Tamil Nadu, (2021) 4 SCC 1.



arrest. PW-4 first claimed to have witnessed the discard, then conceded in cross-examination that he ran to the spot after a commotion and saw the accused for the first time there; he, too, could not name the arresting officer. PW-4's further assertion that the accused attempted to flee finds no corroboration. These contradictions on the core act, who intercepted the accused, where, and how the bag was recovered, fracture the link between the Respondent and the contraband and render the recovery narrative unsafe to rely upon.

Conclusion

15. The Court does not discern any perversity, patent illegality, or manifest misappreciation of evidence in the impugned judgment. The Trial Court's findings rest on cogent evaluation of evidence, suggesting that the entire process of recovery and seizure was fraught with serious procedural irregularities, material contradictions in witness testimonies, and glaring inconsistencies regarding the manner of apprehension and the composition of the raiding team. These conclusions are supported by the record and represent a plausible view of the evidence, fortified by the presumption of innocence that merits acquittal. No exceptional circumstance has been shown to justify appellate interference under Section 378(3) Cr.P.C.

16. In view of the above, the present leave to appeal is dismissed.

SANJEEV NARULA, J

NOVEMBER 07, 2025

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