



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

CRA-S-142-SB-2009(O&M)

Date of Decision: 09.04.2026

Harwinder Singh

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Jaspal Singh Pannu, Advocate (Amicus Curiae)
for the petitioner.

Mr. M.S.Bajwa, Deputy Advocate General, Punjab.

N.S.Shekhawat J. (Oral)

1. The appellant has filed the present appeal against the impugned judgment of conviction and order of sentence dated 10.01.2009 passed by the Court of Special Judge, Patiala, whereby the appellant was convicted for the commission of the offences punishable under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and was sentenced to undergo rigorous imprisonment for a period of four years and to pay a fine of Rs.7,000/- alongwith default stipulation.

2. The brief facts of the case are that on 08.07.2002, ASI Harpal Singh along with other police officials was patrolling in search of bad elements. They were going from village Gheora towards the main road bus stand Gheora and they were 20 karams short of bus stand Gheora. The accused alighted from the truck, at the bus stand and at that time, he was having a jhola (Bag) in his right hand. On seeing the police party, accused turned back but on suspicion, he was apprehended and in the meantime Sukhdev Singh, Sarpanch



of village Nizamniwala came there. I.O. enquired the whereabouts of Harvinder Singh and further told him that he suspected contraband in the jhola, the search of which is to be conducted but, the accused had a right to get the search conducted in the presence of a gazetted officer or a Magistrate. Accused vide memo (Ex.PF) agreed for search to be conducted in the presence of the I.O. On search of the jhola, opium wrapped in glazed paper was found which on weighment came to be 1 kg 700 gms. Two samples of 10 gms each were separated and in all three parcels were prepared and sealed with his seal impression HS. Sample seal impression (Ex.P1) was also prepared. Seal after use was handed over to Sukhdev Singh. Case property was taken into possession, vide memo (Ex.PG). From personal search of accused Rs.245/- were recovered vide memo (Ex.PH). Ruqa (Ex.PJ) through C. Palwinder Singh was sent to the police station on the basis of which formal FIR (Ex.PJ/1) was recorded. Rough site plan (Ex.PK) was prepared. Grounds of arrest, vide memo (Ex.PL) were supplied to accused. Statements of witnesses were recorded. After returning to the police station, I.O. produced the accused and case property before SHO Harbhajan Singh, who found the factum of recovery to be correct. Thereafter, he put his own seal bearing impression HS on all the parcels as well as on Ex.P1. Thereafter, he deposited the case property with MHC Udham Singh. On the same day, I.O. took the charge of the case property from the MHC Udham Singh for producing the same before Ilaqua Magistrate vide application (Ex.PM) but the Magistrate passed an order on the police remand request (Ex.PD) the order is Ex.PD/1. On return to police station I.O. redeposited the case property with the MHC Udham Singh. Sample parcel is Ex.P2, bulk parcel ExP3, jhola Ex.P4 and envelope containing currency Ex.P5.



On receipt of report of chemical examiner Ex.PE and after completion of all other formalities of investigation, challan against the accused was presented in the Court.

3. On presentation of the challan, the trial Court found that a *prima facie* case under Section 18 of Narcotic Drugs & Psychotropic Substances Act, 1985 was made out against the appellant and he was charge-sheeted accordingly. He pleaded not guilty and claimed trial.

4. In order to prove its case, the prosecution examined PW-1 C. Narinder Singh, PW-2 Inspector Harbhajan Singh, PW-3 ASI Harpal Singh, PW-4 MHC Udham Singh and PW-5 ASI Major Singh and thereafter, the prosecution evidence was closed.

5. After closure of the prosecution evidence, the statement of the appellant under Section 313 Cr.P.C. was recorded and all the incriminating circumstances were put to him. However, he denied all allegations and pleaded false implication in the present case. The appellant chose not to lead any defence evidence.

6. Learned counsel for the appellant vehemently argued that in the present case, the FIR was recorded only on the basis of suspicion and even on the ruqa, the I.O. had not appended his signatures. Still further, the entire prosecution case was based on the testimonies of official witnesses and in the absence of independent corroboration, the story of the prosecution was liable to be disbelieved by this Court. He further contends that in fact, the appellant was falsely involved by the police due to some previous enmity and that the appellant is liable to be acquitted by this Court.



7. On the other hand, learned State counsel has referred to be findings recorded by the Court and submitted that the present appeal deserves to be dismissed by this Court.

8. I have heard learned counsel for the parties and perused the record carefully.

9. In the present case, no doubt, the prosecution case is based on the testimony of official witnesses, however, the testimonies of official witnesses could not be rejected only on their official status. Still further, the appellant had completely failed to show that the police officials were inimical towards him. Apart from that, no doubt as a rule of prudence, the police should associate independent witnesses at the time of effecting the recovery, however, non-joining of independent witnesses could not be a ground for rejecting the case of the prosecution. In the present case, all the official witnesses were duly cross-examined by the appellant and the testimonies of the prosecution witnesses could not be discredited in any manner. Even, the trial Court has discussed in detail the entire prosecution case as well as all the pleas raised by the appellant. Still further, this Court finds no force in the submissions made by learned counsel for the appellant. The ruqa (Ex.PJ) was not signed by the I.O. of the present case. In fact, ruqa is just a formal intimation to the police with regard to the commission of the offence and there is no mandatory requirement of signing the ruqa. Still further, even the said ruqa has been duly proved by the official witnesses and such a minor irregularity has been rightly ignored by the trial Court. Even otherwise, I have gone through the findings recorded by the trial Court and find no reasons to deviate from the same. The trial Court has



appreciated the prosecution evidence correctly, in the light of settled canons of law.

10. Now, advertng to the order on quantum of sentence, this Court has no hesitation to hold that the appellant is facing the agony of trial/ appeal/ revision since more than 23 years. Even the appellant has undergone 03 months and 05 days of actual custody, out of total sentence of 04 years. Moreover, the appellant is the first offender and was never involved in any other criminal activity. Even, the sentence imposed on the appellant was suspended by this Court on 31.01.2009 and in the last about 17 years, he has maintained good conduct. Thus, keeping in view the mitigating circumstances, the sentence imposed on the appellant is reduced to the period already undergone by him. The fine amount remains the same.

11. With the above modifications, the present appeal is partly allowed and the judgment of conviction is upheld, whereas, the sentence imposed on the appellant is reduced to the period already undergone by him. The sentence of fine will remain the same.

12. Pending applications, if any, also stand disposed of, accordingly.

13. I record my appreciation for Mr. Jaspal Singh Pannu, Amicus Curiae, who has rendered able assistance to the Court on behalf of the appellant. His fee is assessed Rs.20,000/-, which shall be paid by the Secretary, High Court Legal Services Committee, as per rules and practices.

09.04.2026
hemlata

(N.S.SHEKHAWAT)
JUDGE

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