

2026:PHHC:062685



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

212

CRA S-1820-SB-2009

Date of Decision: 20.04.2026

Kamal

...Appellants (s)

Vs.

State of Punjab

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Ms. Harkirat Kaur, Advocate, for the appellant.

Mr. Bhanu Pratap Singh, Addl. A.G., Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The appellant has filed the present appeal against the impugned judgement of conviction dated 08.07.2009 and order of sentence dated 11.07.2009 passed by the Special Court, Jalandhar, whereby, the appellant was held guilty for the commission of offence punishable under Section 21(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') and was sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.3,000/- alongwith default stipulation.

2. The brief facts of the prosecution case are that on 20.10.2005, ASI Ram Lubhaya along with LC Neelam Rani, HC Mulakh Raj and other police officials were going for patrolling from Mohalla Ajit Nagar to Guru Gobind Singh Avenue Jalandhar and when the police party reached near Bhatha Mill Wala, the accused was seen coming from the opposite side carrying plastic bag in

her right hand. On seeing the police party, she threw such bag on the ground and thus nabbed on suspicion. Accused was interrogated about her profile. ASI Ram Lubhaya conducted search of the accused from which smack was recovered. Two samples each of five grams were separated in separate two plastic boxes. The residue was weighed and came out 90 grams and was put into a separate plastic box. All the parcels were sealed by ASI Ram Lubhaya with his seal mark RL. He prepared sample of his seal and seal after use was handed over to HC Mulakh Raj. Case property was taken into possession by preparing separate recovery memo attested by the witnesses. Personal search of the accused was got conducted from LC Neelam Rani. Personal search memo and grounds of arrest memo were also prepared, which were signed by the accused and attested by the witnesses. ASI Ram Lubhaya prepared site plan of the place of recovery and sent *ruqa* to the police station on which basis FIR was registered under Section 21 of the NDPS Act against the accused. Accused was formally arrested at the spot. ASI Ram Lubhaya also recorded the statements of witnesses at the spot. On going to police station, he produced the case property before SHO Rajinder Kumar. SHO also verified the facts and sealed the parcels with his seal bearing mark 'RK'. He also prepared sample of his seal. Case property was then deposited with MHC Sukhjit Singh. Later case property was produced before the Magistrate and retention order was obtained. Then entire case property was deposited by ASI Ram Lubhaya with the MHC. Sample parcel and sample of seal were sent to the office of Chemical Examiner. On receipt of report of Chemical Examiner,

accused was sent to face trial under Section 21 (b) of the NDPS Act by presenting report under Section 173 Cr. P.C.

3. After the presentation of the *challan*, the trial Court found that a *prima facie* case under Section 21(b) of the NDPS Act was made out against the appellant and he was charge-sheeted accordingly. However, the appellant pleaded not guilty and claimed trial.

4. In support of the prosecution case, the prosecution examined five witnesses, namely, PW1 HC Mulakh Raj, PW2 HC Sukhjit Singh, PW3 ASI Ram Lubhaya, Investigating Officer, PW4 Balwinder Singh and PW5 SI Rajinder Kumar and, thereafter, the prosecution evidence was closed by Court order.

5. After recording of the prosecution evidence, the statement of the appellant was recorded under Section 313 Cr.P.C. and the entire incriminating evidence appearing against him was put to him. However, he pleaded that he had been falsely implicated in the present case. No defence evidence was led by the appellant before the Court.

6. At the very outset, learned counsel for the appellant submits that he does not wish to challenge the judgments of conviction passed against the appellant by trial Court, however, some leniency may be shown while awarding the sentence to him. Even though, learned counsel for the appellant has not challenged the judgment of conviction, still, this Court has considered the case on merits.

7. Learned State counsel submits that the appellant does not deserve the concession regarding sentence and the present appeal be dismissed.

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

9. In the present case, during the trial, the prosecution examined PW1 HC Mulakh Raj, witness of recovery. Still further, PW2 HC Sukhjit Singh was working as MHC and the case property was deposited with him by the team, which had recovered the contraband. He sent the sample parcels and sample seal to the office of chemical examiner. PW3 ASI Ram Lubhaya was the Investigating Officer in the present case and reiterated the version of the prosecution. He deposed the fact with regard to the recovery of the contraband from the present appellant. PW4 Balwinder Singh had taken the sample parcel and sample seal to the chemical examiner and the same was in an intact condition. PW5 SI Rajinder Kumar sealed the material which was produced before him in his capacity as SHO. The prosecution also proved the memo of recovery Ex. PA, memo of arrest Ex. PB, personal search memo Ex. PC, memo regarding recovery of photographs Ex. PD, case property Ex. P1, sample Ex. P2 and report of chemical examiner Ex. PE. Even, from the evidence led by the prosecution, it is also apparent that all the mandatory provisions of NDPS Act were complied with and the commission of offence under Section 21(b) of the NDPS Act was proved against the appellant. Even otherwise, I have carefully gone through the judgment passed by the learned trial Court and find that the same does not suffer from any infirmity, illegality, or perversity. Accordingly, the impugned judgment of conviction is ordered to be upheld.

10. Now adverting to the order on quantum of sentence, this Court is conscious of the fact that the appellant is facing the agony of prosecution/trial since 20.10.2005, i.e., for the last more than 20 years. Even the appellant at present is aged more than 71 years and is first time offender. Further, the sentence imposed on the appellant was suspended by this Court on 05.08.2009 and in the last more than 16 years, he has maintained good conduct. Consequently, keeping in view the aforesaid mitigating circumstances, the sentence imposed on him is reduced to the period already undergone by him.

11. With the above modifications, the present appeal is partly allowed and the impugned judgement of conviction dated 08.07.2009 and order of sentence dated 11.07.2009 passed by the Special Court, Jalandhar, is upheld, whereas, the sentence imposed on the appellant is reduced to the period already undergone by him. However, the amount of fine imposed on them shall remain same.

12. The case property, if any, may be dealt with as per the rules.

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

20.04.2026
amit rana

(N.S.SHEKHAWAT)
JUDGE

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