

2026:PHHC:062660



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

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CRA S-2728-SB-2009

Date of Decision: 20.04.2026

Raja Ram and another

...Appellant (s)

Vs.

State of Haryana

...Respondent(s)

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

Present : Mr. Rahul Vats, Advocate, for the appellants.

Mr. Parmod Kumar, AAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The appellants have filed the present appeal against the impugned judgment of conviction dated 05.11.2009 and order of sentence dated 06.11.2009 passed by the Additional Sessions Judge, Fatehabad, whereby, the appellants were held guilty for the commission of offence punishable under Section 18(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") and were sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.3,000/- each, along with default stipulation.

2. During the pendency of the present appeal, Sunil Kumar, appellant No. 2, had expired and the appeal qua him stood abated.

3. Brief facts of the prosecution case are that on 01.08.2006, Inspector Hanuman Investigating Officer along with EHC Dharampal, EHC Rajinder Singh, C. Gurdhayan Singh, C. Partap Singh was present in front of Shivji Murti on Fatehabad to Ratia road in connection with

patrolling and crime checking duty in a government jeep bearing registration No. HR-22-B-1181 being driven by C. Ranbir Singh. Meanwhile, a secret information was received by Investigating Officer to the effect that Raja Ram and Sunil are indulging in smuggling of opium. They will go to Punjab through this road towards Ratia side to sell opium on their motorcycle TVS Victor. Soon after a motorcycle TVS Victor of red colour was seen coming from Fatehabad side. Investigating Officer gave a signal to stop the motorcycle. On interrogation, the driver of the motorcycle disclosed his name as Raja Ram son of Banwari Lal and pillion rider disclosed his name as Sunil son of Moji Ram having a polythene bag in his hands. Investigating Officer enquired about the contents of that bag. Sunil replied that it contained clothes. On suspicion of some contraband article in that bag, Investigating Officer Inspector Hanuman served a notice to both the accused to the effect that he intended to search the bag if the accused so desires, search can be arranged before a gazetted officer or a magistrate. Vide reply both the accused repored that the search of the bag be conducted in the presence of a gazetted officer. Notice as well as reply were signed by both the accused after admitting the contents of the same. EHC Dharampal and Rajinder Singh EHC attested both the documents. Thereafter, Investigating Officer sent a message to the DSP, City, Fatehabad to reach at the spot. After receiving the message, Shri Harish Kumar Dutta, DSP City, Fatehabad reached at the spot. He disclosed his identity to both the accused. Investigating Officer explained the facts of the case to the DSP City, Fatehabad. On the

direction of the DSP, Investigating Officer opened the bag and it was found containing opium. Two samples of 50 grams each were separated as sample and converted into the parcels. The remaining on weighment was found to 1 kg 400 grams. All the sample parcels and the residue were converted in to sealed parcel and sealed with the seal of 'HB' by the Investigating Officer and 'HKD' by the DSP. All the parcels were taken into possession vide separate recovery memo. Seal of the Investigating Officer after its use was handed over to EHC Dharampal and DSP kept his seal with himself. Later on Investigating Officer carried out all the investigation at the spot. He prepared the rough site plan, recorded the statements of the witnesses and prepared other documents. Thereafter, he returned to the police station and produced the accused, the case property and the witnesses along with report before SHO Balbir Singh, who verified the facts from both the accused and the witnesses and affixed his seal on each of the parcel and directed the Investigating Officer to deposit the case property with the MHC and to put both the accused in police lock up. The Investigating Officer did so and on completion of investigations, *challan* was filed against both the accused.

4. After the presentation of the *challan*, the trial Court found that a *prima facie* case under Section 18 of the NDPS Act was made out against the appellants and they were charge-sheeted accordingly. However, the appellants pleaded not guilty and claimed trial.

5. In support of the prosecution case, the prosecution examined HC Dharampal as PW1, Inspector Veer Singh as PW2,

Inspector Hanuman as PW3, HC Om Parkash as PW4, HC Pawan Kumar as PW5, DSP Harish Kumar as PW6, Inspector Balbir Singh as PW7, and Sushil Kumar as PW8 and, thereafter, the prosecution evidence was closed.

6. After recording of the prosecution evidence, the statements of the appellants were recorded under Section 313 Cr.P.C. and the entire incriminating evidence appearing against them was put to them. However, they pleaded that they had been falsely implicated in the present case.

7. In his defence, the appellants examined DW1 S.S. Malik, Hand Writing and Finger Print Expert and, thereafter, closed the prosecution evidence.

8. At the very outset, learned counsel for the appellant No. 1 submits that he does not wish to challenge the judgments of conviction passed against the appellant No.1 by trial Court, however, some leniency may be shown while awarding the sentence to him. Even though, learned counsel for the appellant No.1 has not challenged the judgment of conviction, still, this Court has considered the case on merits.

9. Learned State counsel submits that the appellant No. 1 does not deserve the concession regarding sentence and the present appeal be dismissed.

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

11. In the present case, the prosecution had examined PW1 HC Dharampal, who had witnessed the recovery in the present case. He

remained associated with the process of recovery of the contraband in the present case. PW2, Inspector Veer Singh, had recorded a formal FIR in the present case. HC Om Prakash was examined as PW4, who stated that the case property was deposited with him by Inspector Hanuman, IO of the case, for safe custody. HC Pawan Kumar, PW5, delivered the case property to the FSL at Madhuban. DSP Harish Kumar, PW6, was called at the spot at the time of recovery and he had seen the recovery of contraband from the present appellants. Inspector Balbir Singh, who had verified the facts of case from witnesses and had prepared the report under Section 57 of the NDPS Act was examined as PW7. He had verified the contents of the FIR as well as the entire investigation. Further, Inspector Hanuman had conducted the investigation in the present case and had proved the recovery from the present appellants and had also proved the complete investigation in the present case. From the statements of aforesaid prosecution witnesses, it amply stood proved that 01 kilogram and 500 grams of opium was recovered from the conscious possession of the present appellants and they were carrying the same without any permit or licence. 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.

12. Now, adverting to the order on quantum of sentence, this Court cannot lose sight of the fact that the appellant No.1 is facing the agony of trial since 01.08.2006, i.e., for the last more than 17 years.

Even the appellant No.1 was sentenced to undergo rigorous imprisonment for a period of three years and as per his custody certificate, the appellant No.1 has already undergone 06 months and 01 day of actual custody in the present case. Apart from that, he is first-time offender and was never involved in any other crime. Even, the sentence imposed on the appellant No.1 was suspended by this Court on 03.02.2010 and in the past more than 15 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.

13. With the above modifications, the present appeal is partly allowed and impugned judgment of conviction dated 05.11.2009 and order of sentence dated 06.11.2009 passed by the Additional Sessions Judge, Fatehabad, is upheld, whereas, the sentence imposed on the appellant No.1 is reduced to the period already undergone by him. Appeal qua appellant No.2 stood abated. However, the amount of fine imposed on the appellant No.1 shall remain same.

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

15. 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