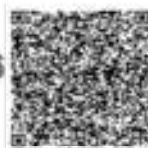


2026:PHHC:041056



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

213

CRA S-56-SB of 2009

Date of Decision: 16.03.2026

Bikkar Singh

...Appellants (s)

Vs.

State of Punjab

...Respondent(s)

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

Present : Ms. Manjot Kaur, Advocate for the appellants.

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 and order dated 08.01.2009 passed by the Special Court, Barnala, whereby, the appellant was ordered to be convicted for the commission of the offence punishable under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') Act and he was sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.2000/-, alongwith default stipulation.

2. The brief facts of the present case are that on 12.9.2007, ASI Baljit Singh, CIA Staff, Barnala along with his police companions, in connection with patrolling duty and checking of bad elements was proceeding from main road, Barnala towards Bathinda. When they had crossed out skirts of village Dhaula, on the link road, Jita Singh son of Gora Singh met the police party, who was associated in the police party.

Thereafter when the police party was 300 yards short of out skirts of

Dhaura, at about 6.00 AM, then from the opposite side, one person was seen carrying a loaded gunny bag on his head. On seeing the police party, he got perplexed and turned towards his left side path. On suspicion, ASI Avtar Singh with the help of his companions, apprehended him and on enquiry he disclosed his name as Bikkar Singh' and disclosed his other particulars. Thereafter ASI Baljit Singh disclosed his identity and present place of posting to the accused and stated to the accused that he suspects some illegal substance in the gunny bags held by him and intends to search the same. He also apprised the accused of his right to get the search conducted in presence of Gaz. Officer or Magistrate, who can be called at the spot. However, the accused reposed confidence in ASI Baljit Singh and expressed his desire to get the search conducted from him, upon which consent memo was prepared.

3. Thereafter ASI Baljit Singh, after removal of the gunny bag from the head of the accused, conducted the search of the same, which led to the recovery of poppy husk. Two samples of 250 gm. Each were separated and the residue poppy husk weighed to be 29 Kg. 500 gm. Separate parcels of the samples and the residue were prepared and were sealed with the seal bearing impression "BS". Sample seal was separately prepared. Seal after use was handed over to Jita Singh witness. All the parcels together with sample seal were taken into possession vide separate recovery memo. The accused could not produce any licence or permit for keeping in his possession the aforesaid poppy husk, and as such ruqa was sent to the police station on the basis of whereof, formal case was registered against the accused. Various other

proceedings were conducted at the spot. On return to the police Station, the accused together with the case property was produced before SHO/SI Palwinder Singh, who counter sealed the parcels and the case property and thereafter the case property was deposited with the MHC Avtar Singh in intact condition. Sample parcel was sent to the office of Chemical Examiner and latter vide its report opined the contents of the sample to be poppy head. After completion of investigation, the accused was sent up to face trial for the commission of offence under Sect. 15 of the NDPS Act, 1985.

4. After the presentation of *challan*, the trial Court found that a *prima facie* case under Section 15 of the NDPS Act was made out against the appellant and he was ordered to be charge-sheeted accordingly. However, the appellant pleaded not guilty and claimed trial.

5. During the course of trial, the prosecution examined five witnesses, namely PW1 SI Palwinder Singh, PW2 MHC Avtar Singh, PW3 Constable Jaspal Singh, PW4 ASI Baljit Singh and PW5 HC Dharam Pal, and thereafter the prosecution closed the evidence. Apart from that, certain documents were also exhibited by the prosecution.

6. After the prosecution had concluded the evidence, the entire incriminatory evidence was put to the appellant in the shape of a statement under section 313 Cr.P.C., to which he denied all the allegations and the evidence and stated that he had been falsely involved in the present case. He was arrested by the police in the presence of Sukhdeev Singh, Rameshwar Dass, Jagjit Singh, and Kulwant Singh and nothing was recovered from him.

7. In the defence, the appellant examined Rameshwar Dass, his co-villager as DW1 and HC Ram Lal No 1627/Sangrur as DW2, who had brought the service file of ASI Baljit Singh and proved the copy of the order dated 10.03.2005, which is Ex D1.

8. During the course of arguments, learned counsel for the appellant submits that he does not wish to challenge the judgement of conviction, however, some leniency may be shown while awarding the sentence to the appellants.

9. Even though learned counsel for the appellant does not wish to challenge the conviction, however, this Court has considered the case on merits.

10. In order to prove the charge, the prosecution examined SI Palwinder Singh, who was posted as SHO, Police Station, Tapa, at the time of recovery. The appellant, along with parcels, samples, seals, and the witnesses, were produced before him by ASI Baljit Singh. He verified the facts of search and seizure as well as he had affixed his seal on the recovered contraband as well as on the samples and the case property was deposited with MHC Avtar Singh. PW2 MHC Avtar Singh and PW3 Constable Jaspal Singh filed their affidavits, Exhibit PA and Exhibit PB, and deposed that the case property remained in their safe custody and the sample parcels were taken to the office of chemical examiner in safe and intact condition. The prosecution further examined PW4 ASI Baljit Singh, who was the IO of the present case and stated the facts regarding the investigation in the present case. He clearly deposed that he had complied with all the mandatory provisions of the NDPS

Act. He also prepared a report (Exhibit PK) under Section 57 of the NDPS Act, which was sent to the higher police officers. Thus, from the witness of recovery PW5 HC Dharm Pal, it was apparent that the appellant was apprehended by the police while he was carrying 30 kgs of poppy husk in the gunny bag on his head without any lawful authorization. He also stated that the samples were separated and the parcels and samples and the residue were prepared separately and were duly sealed. From his statement, it is also clear that the case property was handed over to PW2 MHC Avtar Singh who kept the property in safe custody and PW3 Constable Jaspal Singh safely conveyed the sample parcels to the office of Chemical Examiner. Still further, the prosecution examined PW4 ASI Baljit Singh, who is the IO of the present case. He deposed about the mode and manner in which the appellant was apprehended by the police and recovery was effected from him. From the testimonies of the aforementioned witnesses, it was clear that the appellant was carrying 30 kgs of poppy husk in a gunny bag and was rightly held guilty for the commission of the offence under Section 15 of the NDPS Act. Even otherwise, I have carefully gone through the judgment passed by the trial Court and there is no illegality, irregularity or perversity in the said judgment.

11. Now, adverting to the order of sentence, it is apparent that the appellant is facing the ordeal of investigation, trial, and appeal since 12.09.2007, i.e., for the last more than 18 years. At present, he is aged about 58 years and is the sole bread-earner of the family. Still further, the sentence imposed on him was ordered to be suspended by this Court

on 01.05.2009 and he had maintained good character since then. Even, he is a first offender and was never involved in any other criminal activity. Apart from that, out of total sentence of two years, he has also undergone more than 5 months and no purpose will be served by sending him behind the bars again. Thus, keeping in view the aforesaid mitigating circumstances, the sentence imposed on the appellant is reduced to the period already undergone by him.

12. With the above modifications, the appeal is partly allowed and the impugned judgement and order dated 08.01.2009 passed by the Special Court, Barnala, is upheld whereas the order of sentence is modified to the extent that the sentence imposed on the present appellants is reduced to the period already undergone by them. The sentence of fine will remain the same.

13. All pending applications, if any, are disposed off, accordingly.

14. The case property, if any, may be dealt with as per the rules after expiry of period of limitation for filing the appeal.

16.03.2026
amit rana

(N.S.SHEKHAWAT)
JUDGE

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