

2026:PHHC:080055



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

101(two cases)

1.

CRA S-555-SB of 2005

Date of Decision: 18.05.2026

Mewa Ram

...Appellant (s)

Vs.

State of Punjab

...Respondent(s)

2.

CRA S-1527-SB of 2005

Surjit Singh

...Appellant (s)

Vs.

State of Punjab

...Respondent(s)

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

Present : Mr. Dhirinder Chopra, Advocate
for the appellant in CRA S-555-SB of 2005.

Mr. Partap Singh Gill, Advocate as Amicus Curiae
for the appellant in CRA S-1527-SB of 2005.

Mr. Amit Rana, Sr. DAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. This judgment shall dispose of two appeals, i.e., CRA S-555-SB of 2005 titled as “Mewa Ram Vs. State of Punjab” and CRA S-1527-SB of 2005 titled as “Surjit Singh Vs. State of Punjab”, whereby the appellants have challenged the common impugned judgment of conviction and order of sentence dated 04.03.2005 passed by the Judge, Special Court, Patiala, whereby the appellants were convicted for the commission of offence punishable

under Section 15(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, '**the NDPS Act**') and were sentenced to undergo rigorous imprisonment for two years each and to pay a fine of Rs.3000/- each along with default stipulation.

2. The brief facts of the prosecution case are that on 27.07.2003, ASI Surinderpaljit Singh along with other police officials, was going for patrolling from Nagri side towards village Nanhera. When the police party reached near the bridge of Bhakra canal, then two persons were found coming on motor cycle from the side of Nanhera by keeping a gunny bag in between them. These persons tried to slip away, but were nabbed on suspicion. Driver of the motor-cycle disclosed his name as Surjit Singh whereas the pillion rider as Mewa Ram. Then ASI Surinderpaljit Singh disclosed his identity to accused and told them that he was suspecting some contraband in the bag and that search of the bag was to be conducted and as to whether they want to get the search conducted in presence of gazetted officer or magistrate. On such disclosure accused persons reposed confidence in ASI Surinderpaljit Singh and then after recording consent statement (Ex.PB), search of the bag was conducted. It was found to be containing poppy husk. Two samples of 25 gram each drawn from the bag and the remaining poppy husk on weighing came to 29.950 Kg. All the parcels of the samples as well as of bulk parcel sealed with seal bearing impression 'SS' and taken in possession along with motorcycle through recovery memo (Ex.PC). Separate sample seal chit (Ex.P1) also prepared. *Ruqa* (Ex.PD) sent, on which FIR (Ex.PD/1) registered. Site plan (Ex.PE) prepared. On

personal search of accused Mewa Ram currency notes of Rs.50/- were recovered, but on personal search of accused Surjit Singh currency notes of Rs.120/- were recovered and those were taken in possession through personal search memos (Exs.PF and PG, respectively). Memo of grounds of arrest prepared and statements of witnesses recorded.

3. On return to police station, items of case property alongwith accused produced before SHO Govinder Singh Inspector of P.S. Ghagga, who verified the factum of investigation and after finding the seals on items of case property intact put his own seal bearing impression 'GS' on items of case property as well as on sample seal chit. Thereafter, case property was deposited with MHC Hardial Singh in intact condition. On 28.07.2003 items of case property taken by ASI Surinderpaljit Singh from the MHC and produced the same before *Ilaqa* Magistrate where application (Ex.PJ) filed and after obtaining orders (Ex.PJ/1) of Magistrate, case property was redeposited back in intact condition with MHC. Sample in intact condition was sent to the office of Chemical Examiner and on receipt of report of Chemical Examiner and completion of investigation, *challan* against accused persons presented.

4. After concluding the investigation, the *challan* was presented by the police against the appellants. Ultimately, after taking into consideration the *challan* and accompanying documents, the trial Court found a *prima facie* case under Section 15(b) of the NDPS Act against the appellants, to which they pleaded not guilty and claimed trial.

5. To prove its case, the prosecution examined HC Hardial Singh as PW1, ASI Narain Singh as PW2, ASI Surinderpaljit Singh as PW3, HC Manjit Singh as PW4, Inspector Govinder Singh as PW5 and HC Kulwinder Singh as PW6. Thereafter, prosecution evidence was closed after tendering into evidence report of the Chemical Examiner, Ex.PL.

6. After closure of the evidence, the statements of the appellants were recorded under Section 313 Cr.P.C. and they denied all the incriminating evidence put to them and stated that they have been falsely involved in the present case. No evidence was led in defence.

7. Learned counsel for the appellants have vehemently argued that the appellants had falsely been involved in the present case and the mandatory provisions of the NDPS Act were not complied with, which vitiated the entire trial. Apart from that, learned counsel have referred to the testimonies of PW3 ASI Surinderpaljit Singh and PW6 HC Kulwinder Singh in detail to contend that there were material discrepancies in the statements of various prosecution witnesses, which strike at the root of the matter and the story of the prosecution was highly doubtful. Still further, it was also apparent from the affidavit Ex. PA of HC Hardial Singh, PW1, that the link evidence in the present case was completely missing and Ex. PA could not be read into evidence. Still further, there was delay of eight days in sending the samples to the FSL and the appellants have been wrongly convicted by the trial Court.

8. On the other hand, learned State counsel has submitted that the police had complied with all the mandatory provisions of law and

the prosecution case cannot be discarded only on the ground of minor contradictions in the statements of various prosecution witnesses, who got a chance to appear before the trial Court after several months. Thus, the impugned judgment of conviction and order of sentence are liable to be upheld by this Court.

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

10. In the present case, the prosecution case is primarily based on the testimonies of PW3 ASI Surinderpaljit Singh and PW4 HC Manjit Singh. ASI Surinderpaljit Singh PW3, had supported the initial statement which was made by him. He explained the entire procedure of effecting the search from the appellants in the present case. He had drawn two samples of 25 grams each after preparing the consent memo Ex. PB. Even the bulk parcel and the other parcels were duly sealed and the case property was taken into possession vide recovery memo Ex. PE. Even the personal search was conducted vide memo Ex. PF and Ex. PG and the grounds of arrest were explained to both the appellants. On the basis of *rukka* Ex. PD sent by him, the FIR Ex. PD/1 was recorded by the police and he proved the recovery of 30 kgs of poppy husk from the appellants. He stated that the case property along with bulk parcel and samples were produced before Inspector/SHO Govinder Singh PW5 and he had put his own seal 'GS' on the items of the case property as well as on sample seal chit Ex. P-1. Further, on the next day, the case property along with accused were produced before the Area Magistrate and after obtaining orders Ex. PG/1, the case property was redeposited with PW1

HC Hardial Singh, *Moharir* of the *Malkhana*. Apart from that, as per the testimony of PW2 Mewa Ram, the ownership of motorcycle was ascertained and it was found to be owned by Mewa Ram. Thus, it stood established that both the appellants were travelling on the motorcycle owned by Mewa Ram, appellant. Apart from that, it was also clear from the report of the chemical examiner Ex.PC that the contraband recovered from the appellants was poppy husk. Further, from the affidavits Ex. PK and contents of report of chemical examiner Ex. PL, it was well proved that the samples and the case property remained intact throughout from the stage of recovery till reaching the office of chemical examiner. Thus, there was sufficient evidence to convict the appellants for commission of offence punishable under Section 15(b) of the NDPS Act. Apart from that, during the course of arguments, learned counsel for the appellants have referred to various discrepancies in the statements of PW3 ASI Surinderpaljit Singh, the Investigating Officer, PW4 HC Manjit Singh and PW6 HC Kulwinder Singh. However, the trial Court has already discussed in detail the effect of such contradictions. Also, none of the discrepancies/contradictions mentioned by the learned counsel for the appellants was sufficient to discard the case of the prosecution. Apart from that, I have also gone through the judgment passed by the trial Court and found that all the mandatory provisions of the NDPS Act were complied with by the police and there was no infirmity, illegality or perversity in the impugned judgment. Accordingly, the impugned judgment of conviction is ordered to be upheld.

11. Now adverting to the order on quantum of sentence, this Court cannot lose sight of the fact that the appellants are facing the agony of trial/appeal since 27.07.2003, i.e., for the last more than 22 years. The sentence of appellant Mewa Ram was suspended vide order dated 22.03.2005 and that of appellant Surjit Singh vide order dated 20.10.2005 and they have not misused the concession of bail during the last more than 21 years and 20 years respectively and have maintained good conduct. Consequently, keeping in view the aforesaid mitigating circumstances, the sentence imposed on the appellants is reduced to the period already undergone by them.

12. With the above modifications, the present appeals are partly allowed and impugned judgment of conviction and order of sentence dated 04.03.2005 passed by the Judge, Special Court, Patiala, are upheld, whereas, the sentence imposed on the appellants is reduced to the period already undergone by them. However, the sentence of fine will remain the same.

13. The fee of Mr. Partap Singh Gill, learned Amicus Curiae, who assisted the Court on behalf of the appellant in CRA S-1527-SB of 2005 is assessed at Rs. 20,000/-. The fee shall be paid by the Secretary, High Court Legal Services Committee.

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

18.05.2026
amit rana

(N.S.SHEKHAWAT)
JUDGE

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