

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-2689-SB-2011 (O&M)
Date of Decision:05.05.2026

Raj @ Raju...Appellant

Vs.

State of Punjab...Respondent

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

Present: Mr. Rohit Sharma, Advocate for
Mr. J.B.S Gill, Advocate
for the appellant.

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

N.S.Shekhawat J.

1. The appellant has filed the present appeal against the impugned judgment of conviction and order of sentence dated 28.09.2011, passed by the Judge, Special Court, SBS Nagar, whereby the appellant was ordered to be convicted for the offence punishable under Section 15 of NDPS Act and was sentenced as under:-

Under Section 15 of NDPS Act	R.I for a period of six months and to pay a fine of Rs.,1000, in default of payment of fine, to further undergo RI for a period of 15 days.
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2. The brief facts of the present case are that on 09.09.2007, ASI-Surinder Kumar along with other police officials were on patrolling duty and were going towards village Gadhani. When the police party reached near Bridge Canal then one person was seen coming on scooter from the side of agricultural fields, who on seeing the police party became perplexed and tried to



turn back. He was apprehended by the Investigating officer with the help of other Police officials. On asking, he disclosed his name as Raj @ Raju son of Gurmit @ Dukhia resident of Village Chak Kala, P.S. Nakodar, District Jalandhar. ASI Surinder Kumar gave his identity to him regarding his rank, name and posting and told the accused that it is suspected that there is some contraband in the bag, which is lying in between the feet on the scooter and search is to be conducted. He further told the accused that he has the legal right to get the search conducted in the presence of any Gazetted Officer or a Magistrate, but he reposed confidence in ASI-Surinder Kumar. His consent statement was recorded, which was thumb marked by the accused and attested by the witnesses. Thereafter, the search of the bag was conducted and it contained poppy husk. Out of the same, 250 grams of poppy husk was separated as sample and its parcel was prepared, whereas remaining poppy husk, on weighing, came to be 09 Kg 750 grams and the same was put into the same bag and its parcel was prepared. Both the parcels were sealed by the Investigating officer with his seal bearing impression "SK". Form No.29 was filled up and specimen seal impression was prepared separately. The seal after its use was handed over to HC-Shingara Singh. The entire case property was taken into police possession vide a separate recovery memo as the accused could not produce any licence or permit to keep 10 Kilograms of poppy husk in his conscious possession. Ruqa was sent to the police station for registration of FIR and on the basis of which, FIR was registered against the accused. Rough site plan of the place of recovery was prepared. On receipt of report of the Chemical Examiner and after completion of investigation, the challan against the accused was presented in the Court.



3. After perusing the challan and other accompanying documents, the Court found that a prima facie case under Section 15 of NDPS Act was made out against the appellant and he was charge-sheeted accordingly. However, he pleaded not guilty and claimed to be tried by the Trial Court.

4. In order to prove the charge against the appellant, the prosecution examined 05 witnesses.

5. After the closure of the prosecution evidence, the statement of appellant was recorded under Section 313 Cr.P.C and all the incriminating evidence was put to him, to which he pleaded that he had been falsely involved in the present case. No defence evidence was led by the appellant in his defence.

6. At the very outset, learned counsel appearing on behalf of the appellant submits that he does not wish to challenge the impugned judgment of conviction and some leniency may be shown by this Court, 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. I have heard the learned counsel for the parties and with their able assistance; I have gone through the trial Court record carefully

8. In the present case, the prosecution had examined HC Harbhajan Dass as PW-1, who had deposited the duly sealed sample to the Chemical Examiner on 05.10.2007. PW-2 HC Shonki Ram also deposited the case property on 09.09.2007 with ASI Surinder Singh and the duly sealed sample was handed over to PW-1, HC Harbhajan Dass. The prosecution further examined ASI, Surender Kumar, who was the part of the raiding party and



proved the recovery of the contraband from the appellant. Even, 250 grams of poppy husk was taken out as a sample and was duly sealed by following the procedure prescribed by law. Remaining poppy husk i.e 09 Kg 750 grams was kept in a separate parcel i.e. a plastic bag. The prosecution further examined HC, Hardip Singh, Inspector as PW-4, who had proved the investigation in the present case. ASI Shingara Ram was examined as PW-5 and had supported the testimony of ASI Surinder Kumar and had proved the recovery in the present case.

9. From the evidence led by the prosecution, it was amply proved that 10 Kgs of poppy husk was being carried by the appellant without any permit or license and the recovery of the contraband stood proved from him and he was rightly held guilty for the commission of offence punishable under Section 15 of NDPS Act.

10. Even otherwise, I have gone through the judgment passed by the Trial Court and find that there is no illegality, perversity or infirmity in the impugned judgment passed by the Trial Court and the impugned judgment of conviction is ordered to be upheld.

11. Now, adverting to the order of quantum of sentence in the present case, this Court cannot lost sight of the fact that the FIR in the present case was registered on 09.09.2007 and the appellant is facing the agony of trial/appeal for the last more than 18 years. Even, the appellant was sentenced to undergo R.I for a period of six months and he has already undergone about 03 months of actual custody. Even, the appellant is first offender and was never involved in any criminal activity. Apart from that, the sentence imposed on the appellant was ordered to be suspended by this Court on 08.11.2011 and in the past 15



years, he had maintained good conduct. Consequently, the order of sentence is modified to the extent that the sentence imposed on the appellant is reduced to the period already undergone by him in the present case and the amount of fine will remain the same.

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

13. Pending application(s), if any, stand(s), disposed of, accordingly.

14. Case property, if any, be dealt with, as per rules.

15. The Trial Court record be sent back, if any.

(N.S.SHEKHAWAT)
JUDGE

05.05.2026
hitesh

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