

2026.PHHC.069355



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

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CRA S-2971-SB of 2011

Date of Decision: 29.04.2026

Rupesh Jain @ Rupinder Singh

...Petitioner (s)

Vs.

State of Punjab

...Respondent(s)

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

Present : Mr. Aarav Gupta, Advocate as Amicus Curiae
for the appellant.

Mr. Charanpreet Singh, AAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The appellant has filed the present appeal against the impugned judgement of conviction and order of sentence dated 07.11.2011 passed by the Special Court, Sangrur, whereby, the appellant was held guilty for the commission of offence punishable under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') and was sentenced to undergo rigorous imprisonment for nine months and to pay a fine of Rs.5,000/- alongwith default stipulation.

2. Brief facts of the prosecution story are that on 17.03.2006 ASI Anokh Singh of Police Station Kotwali, Sangrur, was leading a police patrolling party, comprised of, *inter alia*, ASI Anoop Singh, and had laid a *Naka* at Nankiana Chowk, Sangrur. At about 11.45 a.m., a male was noticed coming from the side of Gurdwara carrying a poly bag

of black colour in his right hand, who on being stopped by the police party tried to take a U-turn and was apprehended on the basis of suspicion by ASI Anokh Singh. Upon being inquired by him that person introduced himself to ASI Anokh Singh of being Rupesh Jain @ Rupinder Singh, the appellant. ASI Anokh Singh conveyed his suspicion to Rupesh Jain that there was some contraband being carried by him in the poly bag and that he wanted to search it. ASI Anokh Singh apprised the petitioner of his legal right to consent for being searched by him or to opt for being searched in the presence of a Gazetted Officer or a Magistrate. Vide memo of consent Ex. PA, appellant consented for being searched by ASI Anokh Singh himself. Thereafter, ASI Anokh Singh conducted search of poly bag to find out to be containing *opium* wrapped in a glazed paper. ASI Anokh Singh drawn two samples of 10 grams each therefrom and put them into two plastic boxes and then into two cloth parcels. Remaining of the opium weighed which came to be 480 grams and it was put back in the same poly bag and then into plastic box. All of the three parcels were also sealed by ASI Anokh Singh with his seal bearing impression "AS". Specimen of the seal was prepared as Ex P-1 and the seal after use was handed over to ASI Anoop Singh. Case property was taken into his possession by ASI Anokh Singh vide recovery memo Ex.PC. Personal search of the appellant was led to the recovery of ₹ 150/- which was taken into possession vide recovery memo Ex. PC. Intimation of recovery, *ruqa* Ex. PD was sent by ASI Anokh Singh to Police Station, Kotwali, Sangrur through C. Krishan Singh, where it led to the registration of formal FIR Ex. PD/1. Appellant

was formally arrested and intimation of his arrest was given to his mother Joginder Kaur vide memo Ex.PE. Rough site plan of the place of recovery Ex.PF was drawn by ASI PW ASI Anokh Singh. It is further the case of prosecution that the appellant along with case property and PWs were brought by ASI Anokh Singh and produced before Station House Officer Inspector Darshan Singh, Police Station, City Sangrur who verified facts of the case from them and on finding the case property to be intact affixed his own seal bearing impression 'DS' on all the three parcels and so also on the specimen chit of the seal Ex.P1. Thereafter, case property was deposited with the MHC Ajaib Singh.

3. 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 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 six witnesses and, thereafter, the prosecution evidence was closed.

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. In defence evidence, the appellant examined two witnesses.

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.

9. In the present case, the prosecution examined PW1 ASI Anokh Singh, who was the IO of the present case and had corroborated the prosecution case. He was also a witness of recovery of contraband from the appellant. The prosecution further examined PW6 ASI Anoop Singh, who was also part of police party headed by ASI Anokh Singh and was attesting witness of memos Ex. PA to Ex. PE. The prosecution further examined Ajaib Singh, who was working as MHC at police station. The case property was deposited with him on 17.03.2006 by ASI Anokh Singh and later on 18.03.2006, it was again taken for being produced before the Court of Chief Judicial Magistrate, Sangrur. PW3 Constable Narinder Singh stated that on 20.03.2006, MHC Ajaib Singh had handed over one application to him for obtaining a sample parcel of opium from Nazir Malkhana, Sangrur and obtained the sample seal and deposited the same with the chemical examiner on 21.03.2006. PW5 Dara Singh, deposed that on 18.05.2006, ASI Anokh Singh had deposited the case property with him in *Malkhana*. Apart from that, the prosecution relied upon the chemical examiner's report Ex. PG, which

showed that the sample parcel contained opium. From the evidence led by the prosecution, it was proved that the present appellant was found in conscious possession of 480 grams of opium and he has been rightly convicted under Section 18 of the NDPS Act. Even otherwise, I have carefully gone through the judgment of conviction 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 cannot lose sight of the fact that the appellant is facing the agony of trial/appeal since 17.03.2006, i.e., for the last more than 20 years. The sentence imposed on the appellant was suspended by this Court on 12.12.2011 and in the last more than 14 years, he has maintained good conduct and has not misused the concession of suspension of sentence in any manner. He is a first time offender. Consequently, keeping in view the aforesaid mitigating circumstances, the sentence imposed on the appellant 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 and order of sentence dated 07.11.2011 passed by the Special Court, Sangrur, is upheld, whereas, the sentence imposed on the appellant is reduced to the period already undergone by him. However, the sentence of fine will remain the same.

12. This Court places on record a note of appreciation for Mr. Aarav Gupta, Amicus Curiae, who had assisted the Court properly

on behalf of the appellant and the counsel's fees is assessed to be Rs.20,000/-. The aforesaid fee shall be paid by the Secretary, High Court Legal Services Committee.

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

29.04.2026	(N.S.SHEKHAWAT)
amit rana	JUDGE
Whether reasoned/speaking	: Yes/No
Whether reportable	: Yes/No