



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRA-S-305-SB-2011 (O&M)
Date of decision: 26.02.2026

Baljit Ram ...Appellant(s)
VERSUS
State of Punjab ...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Adit Singal, Advocate for the appellant
(Legal Aid Counsel).

Mr. Saurav Verma, Addl. A.G., Punjab.

VINOD S. BHARDWAJ, J. (Oral)

1. The appellant has challenged the judgment of conviction and order of sentence dated 27.01.2011 passed by the learned Judge, Special Court, Shaheed Bhagat Singh Nagar (Nawanshahr) whereby he was convicted in case bearing FIR No.159 dated 06.10.2007 registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Sadar Nawanshahr, and sentenced as under :-

Section	Sentence and Fine	In default thereof
15 of the N.D.P.S. Act	RI for a period of 01 year and a fine of Rs.5,000/-.	R.I. for a further period of 01 month.

2. The appeal pertains to the year 2011, however, there is no representation on behalf of the appellant. Accordingly, present case is being decided on merits by appointing a Legal Aid Counsel. Mr. Adit Singal, Advocate (PH/2908/2020), Advocate, who is present in the Court is appointed as Legal Aid Counsel to assist this Court on behalf of the



appellant. Copy of the paper book was handed over to the Legal Aid Counsel, he has gone through the same as well as the soft copy of the TCR and had assisted this Court.

3. Briefly summarized, the facts of the present case are that on 06-10-2007, ASI Gurmukh Singh alongwith, HC Pargan Ram, C. Amarjit and SPO Amrik Chand was going in a private car from Nawanshahr-Phillaur main road towards village Burj Tehal Dass for patrolling. When the police party was 50 yards short of drain bridge, one person was seen coming out from drain carrying heavy gunny bag on his head, who on seeing the police went towards the drain quickly. On the basis of suspicion, he was apprehended by ASI Gurmukh Singh with the help of other police officials. On asking, he disclosed his name as Baljit Ram son of Shambu Dyal. Thereafter search of the bag was conducted from which poppy husk was found. Out of which 250 grams poppy husk was taken as sample and its parcel was prepared and rest of the poppy husk came to be, 19 Kg. 750 gm and separate parcel was prepared. Sample parcel and parcel of remaining poppy husk were sealed with seal having Impression GS and sample seal impression was prepared. The seal after use was handed over to H.C. Pargon Ram. The sample, case property and simple seal impression were taken into possession vide different memos, which were attested by the witnesses. The accused could not produce any licence or permit to keep poppy husk in his possession. Ruqa was sent to the police station for registration of FIR and FIR was registered against the accused. Accused was arrested and upon



completion of the investigation, the challan against the accused was presented in the court.

4. On appearance of the accused in the court, the copies of the challan, as envisaged under section 207 Cr.P.C., were supplied to the accused free of costs.

5. From perusal of the report under section 173 Cr.P.C. coupled with documents on record, finding a prima facie case, charge under section 15 of Narcotic Drugs and Psychotropic Substance Act, 1985, was framed against the accused to which, he pleaded not guilty and claimed trial.

6. The prosecution, in order to prove its case against the accused, examined PW1 HC Pargon Ram, who duly proved on record consent statement of accused Ex. PA, recovery memo Ex. PB, arrest memo of accused as Ex. PC, personal search memo of accused as Ex. PD, and entrustment memo Ex. PE. HC Jarnail Singh was examined as PW-2, who tendered into evidence his affidavit Ex. PF. SI Gurmukh Singh was examined as PW-3, who apart from proving the aforementioned documents, also proved on record specimen seal impression Ex. PG, FIR Ex. PJ, rough site plan Ex. PK, personal search memo Ex. PL. memo of handing over the case property to the SHO as Ex. PE, application moved before the Ld. duty magistrate as Ex. PO & PP, order passed by Ld. Magistrate is Ex. PQ, chemical examiner report Ex. PR, case property Ex. P-1, HC Prem Lal was examined as PW-4, who duly proved on record FIR Ex. PJ and entrustment memo Ex. PJ/1. SI Surinderpal Singh was examined as PW-6 who duly



proved on record form no. 29 as Ex. PW6/A. thereafter, Ld. PP for the State closed its evidence of the prosecution.

7. After closing the evidence of the prosecution, statement of accused u/s 313 Cr.P.C. was recorded in which all the incriminating circumstances appearing against the accused were put to him and the accused denied the allegations levelled against him and preferred to lead defence evidence. However, no defence evidence was adduced by the accused and the same was closed by order.

8. Learned legal aid counsel vehemently argues that the appellant has been falsely implicated in the present case. He contends that no recovery was effected from the appellant and there are material contradictions in the statements of witnesses and there is no evidence to establish the link of the appellant with the recovered contraband. It is further contended that no independent/public witness had been joined, notwithstanding, the appellant was arrested in an inhabitant area of village Burj Tehal Dass. He contends that there was also no explanation put forth by the officials as to how and under what circumstances, they were present at the spot in search of antisocial elements. He contends that the investigating officer was on a private vehicle, however, the detailed description of the same has not been given which renders the presence of the Police officials suspect.

9. State counsel on the other hand contends that the case against the appellant has been fully established by examining all the material witnesses. It was a case of chance recovery and the appellant was



apprehended by the Police officials. He was given an offer for his search to be conducted in presence of a Gazetted Officer or the Magistrate and after recording of the consent memo, the search was conducted resulting in recovery of 20 kilograms of *Poppy Husk*. It is contended that all the documents which were prepared on the spot have been duly exhibited and that no suggestion had been put by the appellant which would impeach the admissibility or relevancy of the said documents or impeach the credibility of the testimony of the witnesses. It is further contended that the absence of the details pertaining to the registration number of the vehicle etc. are immaterial for the adjudication of the present case as there is no allegation or suggestion that the investigation had not been conducted by the person concerned. It is contended that the other arguments pertaining to non-joining of any independent witnesses etc. have already been considered by the Judge, Special Court and that in the absence of any flaw having been established from the record, the mere absence of an independent witness would not vitiate the recovery.

10. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents appended with the instant appeal.

11. Before proceeding further on to the merits of the present case, it would be apposite to refer to the judgment under challenge herein.

12. The findings, on the issues raised as above, recorded by the Judge, Special Court, reflects significantly on the considerations before the Court. The same are extracted as under:-



“9. I have heard learned A.P.P for the state as well learned defence counsel and have gone through case file meticulously. In the present case, HC Pargan Ram was examined as PW-1, who deposed that on 06-10-2007, he was posted at police station Aur and he was in the police party headed by ASI Gurmukh Singh and was present on the link road in the area of village Burj Tehal Dass. The police party was 50 yards short of bridge, when the accused present in the court was seen coming with a gunny bag on his head. He tried to turn back and on suspicion, he was apprehended. Thereafter offer was given to the accused as to whether he wants to get the search conducted in the presence of gazzetted officer or a magistrate. The accused reposed confidence in the investigation officer and his consent statement Ex. PA was recorded, which was attested by him. The search lead to recovery of poppy husk. Out of which 250 grams poppy husk was taken out as sample and the remaining poppy husk came to be 19 Kg. 750 Gms. The sample as well as bag were sealed with seal GS and sample seal Impression was prepared at the spot. The attempts were made to join public witness but none was found available. Thereafter SHO Surenderpal Singh met at Bus Adda Saloh and the case property and the accused was produced before him, who after verifying the investigation and facts of the case,



affixed his seal having impression SS. He again handed over back the case property and the same was deposited with MHC.

In the cross-examination, this witness deposed that they started from police post Aur at 12.45 PM and the car was being driven by ASI Gurmukh Singh. The said car was private vehicle and the accused was apprehended at 2.30 PM. the investigating officer asked some persons to join as independent witness but showed their reluctance.

Similarly, SI Gurmukh Singh was examined, who apart from deposing above, also deposed that he produced the case property and the accused before the learned Duty Magistrate.

In the cross-examination, he deposed that they were in private car being driven by him but he does not know the number of the car.

It was Maruti Car. He also deposed that went out for patrolling at 2.30 PM. He also deposed that the weight and scale were brought by SPO Amrik Singh.

Similarly, Surinder pal Singh SHO was examined, who deposed that case property was produced before him.

MHC Prem Lal was examined a PW-4 and he deposed that case property duly sealed with seals GS & SS was produced before him and he sent sample on 2.11.2007 to the



chemical examiner through Constable Jaswant Singh for being deposited with Chemical examiner.

HC Jaswant Singh deposed that he deposited the sample with chemical-examiner on 2.11.2007.

10. *Perusal of the aforementioned evidence of these material witness shows that the prosecution has proved the entire link evidence in the present case. HC Pargan Ram deposed that the police party was patrolling on 6.10.2007 and the accused was apprehended with a gunny bag and from the bag 20 Kg. poppy husk was found. HC Pargan Ram is one of the recovery witness and he has corroborated the testimony of investigating officer and HC Pargan Ram shows that there is no discrepancy in the testimonies of these witnesses. Although these witnesses were cross-examined at length by the cross examined at length by learned defence counsel but his testimonies could not be shattered. Both these witnesses in cross examination has specifically deposed that they started for patrolling at about 12.45 PM and they were going in private car, which was being driven ASI Gurmukh Singh. The prosecution has also proved the entire link evidence by examining the MHC with whom the case property was deposited and HC Jaswant Singh who deposited the sample with chemical examiner. Thus, it is clear that the prosecution has duly proved the entire link evidence in the present case.*



11. *The argument of Ld. counsel for the accused that since no independent witnesses was joined, therefore, the accused are liable to be acquitted, is totally devoid of any merits. It is well settled principal of law that mere non joining of independent witness is not fatal to the case of prosecution if otherwise case of the prosecution proved and found to be reliable. In the present case, the testimonies of material witnesses are totally consistent and there are no discrepancies much less material discrepancies in the testimony of material witnesses. As such, in the present case, mere non joining of independent witness is not fatal to the case of the prosecution.*

12. *The next argument of Ld. counsel for the accused that form no. 29 was not filled up at the spot and therefore, the accused are liable to be acquitted is also devoid of any merits. Though the investigation officer has admitted that form no. 29 was not filled up at the spot but the specimen seal impression has been duly proved on record by the Investigation officer which as per prosecution witnesses was prepared at the spot. SI Surinderpal Singh has specifically deposed that form no. 29 was filled by him when the case property was produced before him. Thus, in the present non preparation of form no. 29 at the spot is not fatal to the case of prosecution. Moreover, the prosecution has duly proved that the entire case property and sample were sealed with seal GS and SS and the Chemical*



examiner has made specific endorsement that the seal on the exhibits were intact and agreed with the sample seal sent. Even the specimen seal Impression has been duly proved on record. The perusal of the order passed by. Ld. Magistrate shows that the Ld. Magistrate specifically recorded in order dated 7.10.2007 that the case property duly sealed with seal GS and 55 has been produced. Thus, the prosecution has duly proved that the case property was not tempered with while lying in the police station and till the sample was sent to the Chemical examiner.

13. It is evident that all the arguments raised herein have been already considered and a finding of conviction has been recorded against the appellant. Learned legal aid counsel has not been able to point out any evidence on the basis of which the findings recorded by the trial Court may be held to be perverse or unsustainable on a meaningful reading of the evidence or to hold that the conclusions drawn are unsustainable. Consequently, finding no error in the judgment, the present appeal is dismissed.

14. At this stage, learned legal aid counsel for the appellant contends that the claim may be considered for reduction in the sentence awarded. He contends that the incident in question pertains to the year 2007 and a period of nearly 19 years has elapsed since then. He contends that as against the sentence of 01 year awarded by the trial Court, the appellant has already undergone an actual custody of 04 months 18 days. He contends



that the appellant has not involved himself in any such similar offence at any later point in time. It is contended that the appellant was 34 years of age at the time of filing of the present appeal and now is nearly 50 years of age. He contends that the fact, that he is not involved in any other case itself shows that he has mended his ways and rehabilitated himself into the main frame of the society as a law-abiding citizen. He further contends that the appellant has to take care of his family and directing him to undergo the remining of the sentence would severely jeopardize the future prospects of the entire family.

15. Learned State counsel does not dispute the aforesaid prayer made.

16. The object of law being not only retributive but also reformatory, the purpose would be defeated in case some benefit is not extended to an accused who has shown reformatory tendencies.

17. Reliance is placed on ***S.K. Sakkar @ Mannan vs. State of West Bengal, (2021) 4 SCC 483***, wherein the accused was convicted under Section 20 of the NDPS Act and Hon'ble Apex Court reduced the sentence of five years to 2 years, 4 months and 16 days, by considering that the occurrence took place in 1997 and he was not a habitual offender, rather a first-time convict.

18. Hon'ble Supreme Court in ***Satish @ Sabbe vs. State of U.P., (2021) 14 SCC 580***, had observed that:

“Whilst it is undoubtedly true that society has a right to lead a peaceful and fearless life, without free roaming criminals



creating havoc in the lives of ordinary peace loving citizens. But equally strong is the foundation of reformatory theory which propounds that a civilised society cannot be achieved only through punitive attitudes and vindictiveness; and that instead public harmony, brotherhood and mutual acceptability ought to be fostered. Thus, first time offenders ought to be liberally accorded a chance to repent their past and look forward to a bright future". [Maru Ram v. Union of India, (1981) 1 SCC 107 : 1981 SCC (Cri) 112]".

19. The circumstances noticed above support the case of the appellant for reduction in sentence and that already a period of more than 04 months 18 days i.e. nearly half of the sentence of total 01 year has already been undergone by the appellant.

20. Considering that the appellant has already suffered the agony of a long-protracted trial, successfully warded off his crime proneness-an evident learning of a lesson; his socio-economic circumstances and detention period, this Court finds sufficient mitigating factors. Thus, ends of justice would be served by reducing his sentence to the period already undergone. However, the fine imposed by the Trial Court is kept intact alongwith the punishment in default thereof.

21. In view of the above, the present appeal is ***partly allowed***. While upholding the conviction, the order of sentence is modified and the order dated 27.01.2011 is reduced to the period undergone and the sentence of fine and custody in default thereof is maintained.



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- 22. The fees of the Legal Aid Counsel is assessed as Rs.11,000/-.
- 23. A copy of this order be sent to the High Court Legal Services Committee for information and necessary action.

(VINOD S. BHARDWAJ)
JUDGE

26.02.2026

Mangal Singh

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