



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

CRM-A-1234-MA-2014 (O&M)

Date of Decision: 06.02.2026

UT Chandigarh

..... Applicant

Versus

Charanjit Singh @ Chani

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Anil Kumar Lamdharia, Addl. PP, UT, Chandigarh,
Ms.Kanta Lamdharia, Advocate and
Mr. Roopse Sharma, Advocate, for the applicant.
None for the respondent.

Rajesh Bhardwaj, J.

1. The applicant-State has filed the application under Section 378(3) Cr.P.C. for grant of leave to file an appeal against the impugned order dated 01.01.2014 passed by learned Special Court, Chandigarh, acquitting the accused-respondent of the charges framed against him.

2. Succinctly facts of the case are that on 20.11.2006, the Police party while on patrolling in the area of Kishangarh IT Part side, saw one car bearing registration No.DL-2CF-6651. On seeing the police, driver of the car tried to turn it back, however, the police apprehended the car alongwith the driver. On asking, he disclosed his name to be Charanjit Singh (respondent). He was suspected to be carrying some contraband and thus, search of the car was conducted. On conducting search, one polythene bag containing 54 injections of Buprenorphine (2 ml each), 212 tablets of Nitrezepam (10 mg each) was found in the car. He failed to produce any licence regarding the possession of the same. Thus, he was arrested on the spot and the FIR was registered. On registration of the FIR, the investigation commenced. On completion of the investigation, the challan



was presented and on farming of charges, the trial commenced. On the conclusion of the trial, giving benefit of doubt to the respondent-accused, learned Special Court, Chandigarh, acquitted him from the charges framed against him, vide impugned order dated 01.04.2014. Hence, aggrieved by the order dated 01.04.2014, the applicant-State has approached this Court by way of filing the present application for grant of leave to file appeal.

3. It has been vehemently contended by learned State counsel for the applicant that the learned trial Court has miserably failed in appreciating the evidence on record. He has submitted that learned trial Court passed the impugned judgment dated 01.04.2014 on the basis of conjectures and surmises. He has submitted that the prosecution examined as many as eight prosecution witnesses and all the prosecution witnesses duly supported the version of the prosecution. He submits that samples taken from the contraband recovered, were duly sent to FSL, however, the same has not been appreciated by learned trial Court. It is submitted that the grounds relied upon by learned trial Court while acquitting the accused are neither substantial nor legally substantial in a case involving a serious offence. He further submits that minor and unintentionally discrepancies cannot constitute valid grounds for acquittal, specially when accused was apprehended at the spot during a duly conducted police *naka* in the presence of multiple officials. He further submits that there is nothing on record to prove the false implication of the accused. He submits that the prosecution proved its case beyond the reasonable doubts, however, learned trial Court did not appreciate the same. He, thus, submits that in the totality of the circumstances as mentioned above, the present leave to application for grant



of leave to file appeal be allowed and the accused-respondent be convicted and sentenced for the charges framed against him.

4. I have heard learned State counsel for the applicant and have perused the impugned judgment as well as the record with his assistance. The scope of interference in an appeal against acquittal is limited. Unless the findings recorded by the learned trial Court are shown to be perverse, wholly unreasonable, or based on misreading or non-appreciation of material evidence, this Court would be slow to grant leave to appeal. If two views are possible on the basis of the evidence on record, the view favouring the accused must ordinarily be preferred.

5. The prosecution case rests primarily on the testimonies of official witnesses, as no independent witness was associated with the investigation. Neither any Gazetted Officer nor a Magistrate was called at the time of the alleged recovery. The recovery is stated to have been effected from a main road where members of the public were continuously passing by, and the prosecution witnesses themselves admitted that several persons were present and crossing the place when the accused was apprehended. Despite the availability of public persons, none were joined in the investigation. The mere statement of the Investigating Officer that public witnesses expressed their inability to join the investigation cannot be accepted as a sufficient explanation, particularly when he failed to record the names, parentage, or addresses of those persons who allegedly refused to join the proceedings.

6. Further, the impugned order reveals that there was an unexplained delay of five days in sending the samples to the Laboratory.



The CFSL form was neither prepared at the spot nor deposited in the Malkhana, even though all members of the raiding party were police officials and the case property remained in their custody. Under the NDPS Act, it is the fundamental duty of the prosecution to prove its case beyond the shadow of reasonable doubt and to establish that the investigation conducted was flawless, particularly with regard to the linked evidence, which assumes great significance. However, the record discloses material discrepancies in the statements of the prosecution witnesses. PW-5 Amrao Singh stated in his cross-examination that a white cloth from his investigation kit was used and that pouches were prepared at the spot with the help of a thread and needle before the material was packed, whereas, PW-7 Inspector Mahabir Singh deposed that the parcels were not hand-stitched but were machine-stitched. Additionally, PW-7 Inspector Mahabir Singh, SHO, stated before the trial Court that on 20.11.2006 SI Chiranji Lal, along with the police party, the accused, and the case property, reached the Police Station at 10:40 p.m., whereas, as per DDR No. 54 dated 20.11.2006 (Ex. P-Q), the case property was deposited with the MMHC at 10:40 p.m., which creates a serious inconsistency in the prosecution version.

7. As per the law settled, the appeal against conviction and that against acquittal rests entirely on different pedestal. As per the criminal jurisprudence, every accused is presumed to be innocent until proven guilty. As per the law settled by Hon'ble Supreme Court, once the accused is acquitted by the Court of law, there lies double presumption of innocence in his favour. Hence, an Appellate Court should not disturb the findings of acquittal arrived at by the trial Court in a cavalier manner and it is only in

case of perversity of the findings, the Appellate Court should interfere in the acquittal order passed by the trial Court. In Jafarudheen and others vs State of Kerala 2022 SCC Online SC 495, it is held that Appellate Court has to be relatively slow in reversing order of trial Court rendering acquittal, relevant para of the same reads thus:

“25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.P.C., the appellate Court has to consider whether the trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the Appellate Court has to be relatively slow in reversing the order of the Trial Court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.”

8. In view of these material lapses and contradictions, the prosecution has failed to establish its case beyond reasonable doubt. The findings recorded by the trial Court while acquitting the accused do not suffer from any perversity or illegality warranting interference. Consequently, no case for grant of leave to appeal is made out. Consequently, the present application filed by the State under Section 378(3) Cr.P.C. seeking leave to file appeal stands dismissed.

06.02.2026

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned

:

Yes/No

Whether Reportable

:

Yes/No