



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

CRR-1193-2009 (O&M)
Date of Decision: 09.04.2026

Gurmeet Kaur

...Petitioner

vs.

State of Punjab

...Respondent

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

Present : Mr. Pratap Singh Gill, Advocate (Amicus Curiae)
 for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present revision petition against the impugned judgment dated 18.04.2009 passed by the Court of Sessions Judge, Bathinda and the judgment of conviction and order of sentence dated 02.12.2008 passed by the Court of Chief Judicial Magistrate, Bathinda, whereby the petitioner was convicted for the commission of the offences punishable under Sections 15/61/85 of NDPS Act and was sentenced to undergo rigorous imprisonment for a period of six months.

2. The brief facts of the case are that on 25.07.2002, SI Harinder Singh accompanied by other police officials was present on the bridge of canal in the area of Paras Ram Nagar, Bathinda on the road leading from Paras Ram Nagar, Bathinda to village Behman Diwana, in connection with checking of suspects. From Behman Diwana side, a man and a woman carrying a plastic bag in her hand came and tried to approach the canal. On seeing the police party, both of them turned towards the left hand side fields. Police party got



suspicious and apprehended both of them. The woman disclosed her name as Gurmeet Kaur wife of Avtar Singh, present petitioner, resident of village Baghewala, P.S. Mamdot, District Ferozepur, now resident of Street No.2, Janta Nagar, Bathinda and the man disclosed his name as Jaswant Singh son of Jangir Singh, resident of Street No. 1, Janta Nagar, Bathinda. The Sub-Inspector told both the said persons that there is a suspicion that there is some narcotic in the bag carried by the said accused and their search is to be conducted. They have got the right of search before the Magistrate or a Gazetted Officer. Both the accused opted for search before a Gazetted Officer. The memo of consent (EX. PA) in this regard was prepared. SI Harinder Singh then flashed a message to the Police Post through Walkie-Talkie to send some Gazetted Officer. In the meantime, Hazura Singh son of Sucha Singh, resident of Jogi Nagar, Bathinda met the police party and was joined as independent witness. The request was also made to sent the Lady Constable. After some time, Jagmohan Singh, Deputy Superintendent of Police (Rural), Bathinda along with Lady Constable Amarjit Kaur, and Lady Constable Sarabjit Kaur reached at the spot. DSP gave his introduction to the accused and told them that he is Deputy Superintendent of Police (Rural), Bathinda and is a Gazetted Officer and that their search is to be conducted. Both the accused agreed for search before the DSP. Memo (EX. PB) in this regard was prepared. Thereafter, search of the bag was conducted, from which one kilogram poppy husk was recovered. 250 grams was separated as sample. The sample and the remaining 750 grams poppy husk were separately packed and sealed by Sub-Inspector with his seal bearing impression 'HS'. Seal after use was handed over to Hazura Singh. Sample and the case property were taken into possession



through recovery memo (EX. PC). Site plan (EX.PE) of the place of recovery was prepared. Ruqa (EX. PD) was sent to the Police Station, where formal First Information Report (EX. PD/L) was registered. Personal search of both the accused were conducted and separate memos in this regard were prepared. Memo of grounds of arrest were also supplied to both the accused. On return to the Police Station, the sample and the case property were produced before the Station House Officer, vide memo (EX.PJ), who checked and verified the same. Before the Court, inventory memo (EX. PW3/A) was prepared. The case, property was deposited vide memo (EX. PW3/C). Special report under Section 57 of the NDPS Act (EX. PW3/E) was sent. After the completion of investigation, challan was presented before Chief Judicial Magistrate, Bathinda, since it was a case of recovery of non-commercial quantity and the offence was triable by the Magistrate.

3. After presentation of the challan, the trial Court found that a *prima facie* case under Sections 15/61/85 of NDPS Act was made out against the petitioner and she was charge-sheeted accordingly. The petitioner pleaded not guilty and claimed to be tried by the trial Court.

4. In order to prove its case, the prosecution examined PW-1 SI Harjinder Singh, Investigating officer of the present case, PW-2 Gurpal Krishan, PW-3 Inspector Des Raj, PW-4 SI Amrit Pal Singh, PW-5 DSP Jagmohan Sing and thereafter, the prosecution evidence was closed.

5. After closure of the prosecution evidence, the statement of the petitioner under Section 313 Cr.P.C. was recorded and all the incriminating circumstances were put to her. However, she denied all allegations and pleaded



false implication in the present case. In defence, the petitioner got produced the Register No.11 and closed the defence evidence.

6. Learned counsel for the petitioner has vehemently argued that the impugned judgments are passed by completely overlooking the evidence led by the parties. Even the search of the petitioner was conducted by a lady constable, who was not competent to search as per Section 50 of the NDPS Act. Further, neither any Gazetted Officer was called at the spot nor any Magistrate was associated during investigation and the chances of planting the recovery on the petitioner cannot be ruled out. The non-compliance of mandatory provisions of Section 50 of the NDPS Act vitiates the entire criminal proceedings. Still further, the inventory of the case property did not mention the particulars of the case. It is apparent that the said document was prepared subsequently. Still further, the presence of the DSP Jagmohan Singh on the spot was also doubtful as no seal was found on the case property and chances of tampering with the case property were very high at the instance of police agency. Still further, there was a delay of 8 days in sending the sample to FSL and the entire prosecution case was doubtful. He further submits that the petitioner is liable to be acquitted by this Court.

7. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner and has referred the findings recorded by the Appellate Court. He further contends that the present petition deserves to be dismissed by this Court.

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



9. In the present case, the police party was present at the place of recovery in connection with patrolling. In the meantime, a man and a woman were seen coming and the woman was having a plastic bag in her right hand. On suspicion, they were apprehended by the police and asked about their names. Gurmit Kaur, petitioner got recovered 01 kg of poppy husk from the polythene bag, which was held by her in her hand. Even the recovery was effected by the police party in the presence of Jagmohan Singh, DSP i.e. a Gazetted Officer. However, in the present case, the petitioner alleged that there was non-compliance of Section 50 of NDPS Act. In fact, the recovery was effected by the police from the bag held by the petitioner and nothing was recovered from her personal search. Thus, there was no need of complying with the mandatory provisions of Section 50 of the NDPS Act. However, still the police complied with the provisions of Section 50 of NDPS Act and had associated Jagmohan Singh, DSP as at the time of effecting the recovery from the present petitioner.

10. Still further, in the present case, there was sufficient evidence to show that the contraband recovered from the petitioner was kept in the Malkhana in a safe custody and the delay in sending the sample to the FSL was immaterial. Still further, I have carefully gone through the findings recorded by the trial Court as well as the Appellate Court and both the judgments call for no interference by this Court and the impugned judgments of convictions are upheld.

11. Now, advertent to the order on quantum of sentence, this Court cannot lose sight of the fact that the petitioner is facing the agony of trial/appeal/revision since 25.07.2002 i.e. for the last more than 24 years. Even she has already undergone 01 month and 01 day of actual custody, out of total



sentence of 06 months. Even the sentence imposed on the petitioner was suspended by this Court on 08.05.2009 and since then, she has maintained good conduct. Even she is the first offender and is a lady. Thus, keeping in view the mitigating circumstances, the sentence imposed on the petitioner is reduced to the period already undergone by her.

12. With the above modifications, the present revision petition is partly allowed and the judgment of conviction is upheld, whereas, the sentence imposed on the petitioner is reduced to the period already undergone by her.

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

14. I record my appreciation for Amicus, who has rendered able assistance to the Court and fee of Amicus Curiae is assessed Rs.20,000/-, which shall be paid by High Court Legal Services Authority, as per rules and practices.

(N.S.SHEKHAWAT)
JUDGE

09.04.2026
hemlata

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