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

CRR-1324-2021
Date of Decision: 24.02.2026
Uploaded on: 24.02.2026

STATE OF HARYANA

... Petitioner

Versus

VIJENDER SINGH & ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. T.P. Singh, Sr. DAG, Haryana
for the petitioner.

Mr. K.S. Siwach, Advocate
for respondent No.2.

Mr. Parminder Singh Sekhon, Sr. Advocate as Amicus Curiae
with Mr. Parshant, Advocate.

JASJIT SINGH BEDI, J (Oral)

The present petition has been filed against the order dated 16.03.2021 whereby the Special Court has remanded the case of the trial involving commission of the offence under Section 27-A of NDPS Act to the Court of JMIC, Hisar.

2. The brief facts of the case are that an FIR No.201 dated 31.07.2020 U/s 20 and 27(a) of the NDPS Act, P.S. Agroha, District Hisar came to be registered when 640 grams of Ganja was recovered from respondent No.1-Vijender Singh. On being asked, he disclosed that he had brought this Ganja from Jinesh S/o Ranbir Singh. During investigation, when Jinesh was arrested the offence under Section 27-A of NDPS Act was added.

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3. The matter was investigated and the challan was submitted in the Court of the JMIC, Hisar under Sections 20 and 27(a) of the NDPS Act. On perusal of the challan, the said Court committed the case to the Court of Sessions by observing that it was only the Special Court which was competent to try a case wherein the punishment of imprisonment was for a term of was more than 03 years as per Section 36A(I) of the NDPS Act. However, the Special Court referred the matter back to the Court of the JMIC, Hisar holding that as only 640 grams of Ganja had been recovered which was a small quantity, the case was triable by the Court of a Magistrate.

4. It is the said order which is under challenge in the present petition.

5. The learned counsel for the petitioner-State contends that once the offence under Section 27-A NDPS Act had been added, rigorous imprisonment for not less than 10 years is prescribed and therefore, in terms of Section 36A(I) of the NDPS Act the case is triable by a Special Court irrespective of the quantity of contraband recovered. Therefore, the impugned order is liable to be set aside and the case be ordered to be tried by the Special Court.

6. The learned Senior counsel Mr. Parminder Singh Sekhon appearing as Amicus Curiae has supported the case of the petitioner-State contending that the impugned order is certainly liable to be set aside as the case is triable by the Special Court.

7. On the other hand, the learned counsel for the respondents/accused contends that as the recovery is of a small quantity of



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contraband i.e. 640 grams of Ganja, the punishment on conviction would be less than 3 years and therefore, the case would be triable by a Magistrate. Therefore, the present petition is liable to be dismissed.

8. I have heard the learned counsel for the parties.

9. Before proceeding further in the matter, it would be apposite to refer to the provisions of the NDPS Act.

Section 27A NDPS Act, reads as under:-

“27A. Punishment for financing illicit traffic and harbouring offenders.—Whoever indulges in financing, directly or indirectly, any, of the activities specified in sub-clauses (i) to (v) of {clause (viii) of section 2} or harbours any person engaged in any of the aforementioned activities, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees”

Section 36 NDPS Act, reads as under:-

36. Constitution of Special Court.—(1) The Government may, for the purpose of providing speedy trial of the offences under this Act, by notification in the Official Gazette, constitute as many Special Courts as may be necessary for such area or areas as may be specified in the notification.

(2) A Special Court shall consist of a single Judge who shall be appointed by the Government with the concurrence of the Chief Justice of the High Court.

Explanation.—In this sub-section, “High Court” means the High Court of the State in which the Sessions Judge or the Additional



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Sessions Judge of a Special Court was working immediately before his appointment as such Judge.

(3) A person shall not be qualified for appointment as a Judge of a Special Court unless he is, immediately before such appointment, a Sessions Judge or an Additional Sessions Judge.

The relevant extract of Section 36A(I) NDPS Act, reads as under:-

“36A. Offences triable by Special Courts.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) all offences under this Act which are punishable with imprisonment for a term of more than three years shall be triable only by the Special Court constituted for the area in which the offence has been committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the Government;

10. Section 36 of NDPS Act defines a Special Court as that of a Session Judge or an Additional Sessions Judge. Section 36A(1)(a) of NDPS Act would reveal that where the punishment with imprisonment is for a period of more than 3 years then the case is triable by the Special Court constituted for the area. Section 27A of the NDPS Act prescribes punishment for trafficking to be not less than 10 years.

11. In the instant case, though the recovery from respondent No.1- Vijender Singh was of 640 grams of Ganja, he disclosed that he had purchased the same from Jinesh. The report under Section 173(2) Cr.P.C. was presented under Section 20 and 27(a) of the NDPS Act. Once, Section 27A of

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the NDPS Act is invoked, it is apparent that the minimum sentence of imprisonment would be 10 years making the case triable by a Special Court.

12. In view of the aforementioned discussion, the impugned order dated 16.03.2021 passed by the Special Court is set aside. The case is ordered to be committed to the Special Court constituted for the area which shall conduct the Trial in accordance with law.

13. Needless to say, in case at the time of framing of charges the Special Court comes to the conclusion that the offence under Section 27A of the NDPS Act is not made out, he would be at liberty to remand the case back to the appropriate Magistrate for the Trial.

(JASJIT SINGH BEDI)
JUDGE

24.02.2026
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No