

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

JUDGEMENT RESERVED ON	JUDGEMENT PRONOUNCED ON	OPERATIVE PART PRONOUNCED OR FULL	UPLOADED ON
05.02.2026	17.03.2026	FULL PRONOUNCED	17.03.2026

CRA-D-1090-2025

Baljinder Singh alias Balli

...Appellant

Versus

State of Punjab

...Respondent

CRA-S-2704-2025

Jasvir Singh @ Captain

...Appellant

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Gagandeep Singh Simble, Advocate
for the appellant in CRA-D-1090-2025.

Mr. Raghav Chadha, Advocate
for the appellant in CRA-S-2704-2025.

Mr. Akshay Kumar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
76	05.08.2022	Sadar Banga	21, 22 of NDPS Act

Criminal Case Number in the Trial Court	CIS No.NDPS/277/2022
Date of Decision	14.07.2025

1. This order shall dispose of two appeals as mentioned above. For the sake of brevity facts have been taken from ***CRA-D-1090-2025 titled as Baljinder Singh alias Balli vs. State of Punjab.***

2. We had heard the present matter on 05.02.2026 and reserved the orders for suspension of sentence and the appeals as well. On 18.02.2026, order qua suspension of sentence was pronounced.

3. A perusal of the judgment dated 14th July 2025 does mention about the weight of the substance but does not mention the name of the substance. In narcotics, Drug and Psychotropic Substances Act, the drugs have been divided in three categories i.e. small intermediate and commercial. Thus, for any quantity to be commercial, which would invite minimum sentence of 10 years it has to be specified that what was the name of the drug and under which notification, what is the weight of the quantity greater than specified to be commercial. In the present case, although as evident from the suspension application, the quantity involved was Etizolam but application is not a substitute of judgment. A perusal of the judgment does not refer to the quantity with one or two of the accused as etizolam. Furthermore Jasvir Singh was sentenced to undergo five years whereas he had 45 tablets and Baljinder Singh was sentenced to undergo 10 years whereas he has 40 tablets. It is not a question that weight of 40 tablets can be more than 45 tablets because it depends on the size of the tablets, but the question which is important is that what was the name of a drug, which is not mentioned in the impugned judgment or even in the sentencing the order. This is a fundamental illegality because the basis of sentence structure under NDPS Act is the categories, small, intermediate and commercial. Unless the category is prescribed along with the name of the drug, it is an illegality to convict someone for a sentence of 10 years. It's not that in intermediate quantities, sentence cannot extend upto 10 years, but if that was so then there is no justification for lesser sentence to one of the accused.

4. Counsel for the appellant Jasbir Singh @ Captain submits that he would be greatly prejudice if his sentence is increased. He further submits that in case the matter is remanded back and they are again convicted, then they shall have to again apply for suspension of sentence and shall have to file an appeal again.

5. We are fully aware of the hardship, which can be caused to one of the convicts, Jasbir Singh @ captain, but it is not a curable defect which can be done by this Court in this appeal. In fact the appeal has been filed against the judgement, which has a defect in it. It is not a petty case where we can ignore the defect. In the entirety of facts and circumstances, we are left with no other option, but to set aside the judgment dated 14th July 2025 as well as the order of sentence 14th July 2025 and remand the matter to the session Court by hearing the parties again for final hearing.

6. Since sentence of both the appellants have been suspended, it is clarified that the sentence shall remain suspended till the announcement of the judgment by the trial Court. However, in case the appellants are convicted, they shall have to surrender and shall have liberty to file an appeal and also applications for suspension of sentence before this court. It is clarified that since we have already suspended the sentence of both the appellants, it shall be permissible for the appellants if the case arises to bring it to the notice of this Court to the concerned bench which is taking up the matter that the circumstances under which they have to again face the trial post evidence for no fault of theirs, and we request the concerned bench, if an eventually arise to take a sympathetic view for suspension of sentence.

7. Thus, in the entirety of facts and circumstances, the present appeals are allowed. The judgment and order of sentence dated 14th July 2025 passed by the Judge Special Court, Shaheed Bhagat Singh Nagar, is quashed and set aside and the matter is remanded back for fresh hearing and if found guilty, then fresh sentence as subject to the terms and conditions as mentioned. Registry to send a certified copy of this judgment along with the record to the concern trial Court. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

(SUKHVINDER KAUR)
JUDGE

17.03.2026
Anju rani

Whether speaking/reasoned	YES
Whether reportable	NO