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

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Date of decision : 02.08.2025

State of Punjab

... Appellant

Versus

Leela Singh

... Respondent

**CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL
HON'BLE MR. JUSTICE H.S. GREWAL**

Present:- Mr. H.S. Deol, Senior DAG, Punjab.

Ms. Nidhi, *Amicus Curiae* for the respondent.

H.S. Grewal, J.

1. Today no one has put in appearance on behalf of the respondent. In the interest of justice, this Court deems it appropriate that the respondent should not be left unrepresented before this Court. Hence, Ms. Nidhi, Advocate is appointed as amicus curiae to represent the respondent in the present case.

2. The present appeal has been preferred by the State against the judgment dated 11.11.2004 passed by the learned Special Judge, Mansa in case FIR No.57 dated 22.05.2003, registered under Sections 15, 25, and 60 of the NDPS Act at Police Station, Jhunir District Mansa whereby the respondent had been acquitted of the charges by giving him the benefit of doubt.

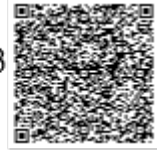


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3. The case of the prosecution is that on 22.05.2003, ASI Harpal Singh along with police party comprising HC Ganga Ram, HC Tej Ram, HC Mela Singh, Constable Ram Singh and Constable Joginder Singh were on patrol duty. When they reached on the link road leading to village Makhewala on G.T. road Mansa-Sirsa 'T' point then one-Baljinder Singh s/o Hamir Singh, who was driving a scooter, had stopped there and the police party was talking with him. In the meanwhile, one Jeep bearing no. HR-10B-9867 came from the side of village Fatta Maluka. ASI Harpal Singh signaled him to stop but he had tried to take a U-turn. ASI Harpal Singh with the help of other police officials apprehended him and checked the back side of the jeep where four bags were found lying. ASI Harpal Singh asked the name of that person who disclosed his name as Leela Singh son of Bachan Singh (respondent). ASI Harpal Singh told him that they had suspicion of intoxicant substance lying in the four bags and he wanted to conduct a search of these bags but had a right to get his search conducted before a Magistrate or any Gazetted Officer. Thereafter, the respondent opted his search at the spot in presence of a Gazetted Officer. Therefore, a consent memo was prepared which was thumb marked by the respondent and attested by the witnesses.

4. On 22.05.2003 at about 11:30 AM, DSP (D) Teja Singh, who was informed through wireless message, had reached there in his Gypsy along with his gunman. DSP Teja Singh told the respondent that he was Gazetted Officer of the Punjab Government and he was posted as DSP(D), Mansa. He wanted to conduct a search of the bags lying in the jeep as he was suspecting some intoxicant substance in the bags. However, the respondent showed confidence



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in DSP Teja Singh and stated that he wanted the search of the bags at the spot in presence of the DSP. On the directions of DSP, rank information-cum-consent memo was prepared which was thumb marked by the respondent and attested by the witnesses. On further directions of the DSP, ASI Harpal Singh conducted a search of the bags after unloading the same from the jeep. The bags contained poppy straw. Two samples of 100 grams each were taken out from each bag. Remaining poppy straw after weighment in each of the bag came to be 30 kgs. The samples and the bulks were made into parcels separately and sealed with the seal bearing impression of letters 'HS'. Sample of the seal was prepared separately. Seal after use was handed over to PW Baljinder Singh. On search of the jeep, driving licence of the respondent was recovered. The case property along with the jeep and driving licence were taken into possession of the police vide recovery memo prepared at the spot which was attested by the witnesses. The respondent was arrested and was taken to the Police Station. Upon his personal search, an amount of Rs.120/- was recovered which was also produced before the SHO who had interrogated the respondent. He affixed his seal bearing impression of letters 'BS' on the case property by keeping the seal 'HS' in intact condition. Since there was no space in Judicial Malkhana so the case property was deposited in the Malkhana of the police under the supervision of SI/SHO Balwant Singh.

5. Learned State counsel submits that the learned trial Court has erred in acquitting the respondent while there was sufficient material led by the prosecution in its right perspective. He further submits that on 22.05.2003, a valid recovery of 120.8 kg of poppy straw was effected from the Jeep driven by



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the respondent/accused and the mandatory provisions of the NDPS Act were duly complied with and his search was conducted by a Gazetted Officer i.e. DSP Teja Singh. The prosecution had examined official witnesses, including the Investigating Officer and DSP, whose testimonies were consistent, corroborative and free from major contradictions or discrepancies. The independent witness Baljinder Singh, who was joined at the time of recovery, later turned hostile, allegedly due to influence or pressure from the accused. Therefore, his denial cannot be a ground to discard the otherwise credible testimony of police officers. The seal bearing impression 'HS' was handed over to the independent witness and the samples were sealed and sent to FSL through Constable Ajaib Singh along with Form 29, proving unbroken chain of custody. He, therefore, prays for setting aside the order of the trial Court.

6. On the other hand, learned *Amicus Curiae* submits that the respondent has been falsely implicated at the instance of Baljinder Singh due to a prior dispute with his brother-in-law. DW-1 Baljinder Singh had denied witnessing any recovery or giving consent. He testified that the police had obtained his signatures on blank papers at the police station. The link evidence is not reliable. DW-1 denied receiving the seal. There is no numbering of samples in the recovery memo, but Form 29 shows numbered samples (1,2,3,4), creating a mismatch and suggesting possible tampering. Although the recovery allegedly took place in village Fatta Maloka but no local independent witness was joined. He, therefore, prays for dismissal of the appeal.

7. We have heard the learned State counsel and have perused the material on record.



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8. In order to substantiate the charge against the accused/respondent, the prosecution had examined PW-1 SI Balwinder Singh, PW-2 DSP Teja Singh, PW-3 ASI Harpal Singh (Investigating Officer of this case), PW-4 Constable Ajaib Singh, PW-5 Ganga Ram HC.

9. PW-1 SI Balwinder Singh had deposed that PW3 ASI Harpal Singh had produced the accused/respondent and case property to him at about 07:00 PM. He had verified the investigation and had interrogated the accused/respondent and affixed his seal bearing impression 'BS'. He had kept the case property in his custody and on 23.5.2003, he had sent special report Ex.PA to the higher authority. On the same day, he had produced the accused/respondent and case property before Illaqa Magistrate vide application Ex.PB and submitted the inventory report EX.PC. As there was no sufficient space in judicial malkhana so he had kept the case property in his safe custody. He had also got the medical examination of the accused vide application Ex.PD. Opinion of doctor is Ex. PD/1. On 25.5.2003, he had handed over the sample parcels, sample seals and form no.29 (Ex.PE) to Constbale Ajaib Singh for depositing the same in the office of FSL Chandigarh, after preparing the docket from the office of SSP, Mansa. The said Constable Ajaib Singh after preparing the docket from the office of SSP Mansa on the same day, had deposited the sample parcel, sample seal, Form no.29 in the office of FSL Chandigarh on 26.05.2003 and produced a receipt to him.

10. PW2 DSP Teja Singh had deposed that on 22.05.2003, after receiving a wireless message, had reached with his gunman at the spot i.e. the



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revenue limit of Fatha Maluka at 'T' point link road Makhawala main road, Mansa where the police party headed by ASI Harpal Singh PS Jhunir was present. PW Baljinder Singh and accused/respondent were present there. Firstly he had disclosed his identity and further told the accused/respondent that he suspects some intoxicant substance in the bag lying in this jeep in his possession. Accused/respondent opted to get his search conducted in the presence of the Gazetted Officer. In this regard, memo was prepared by the Investigating Officer ASI Harpal Singh which was read over to the accused/respondent. Thereafter, a search of the jeep was conducted from where four bags of poppy straw were recovered. From each bag, two samples of 100/100 gram each were taken out and made 08 samples parcels. The remaining poppy straw was weighed with spring balance which came out 30/30 kg including the weight of bag and made four parcels. All the parcels were sealed by the Investigating Officer with seal bearing Impression 'BS' and the sample seal Ex.PB was prepared. Seal after being used was handed over to PW Baljinder Singh. The entire case property was taken into possession by the Investigating Officer vide memo Ex.PG. Thereafter, he had conducted the personal search of the respondent and an amount of 120/- was recovered which were taken into possession vide Ex.PH.

11. PW-3 ASI Harpal Singh had deposed that on 22.05.2003, he along with the police party was present at 'T' point link road Makhewala, GT Main Road Mansa-Sirsa in the revenue limit of Fatta Maluka in connection with checking of vehicles and in the meanwhile, a Jeep No. HR-10B-9867 came from the side of Fatta Maluka. PW Baljinder Singh also came there and he was



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talking with him. On seeing the Police party, the accused/respondent had tried to turn back the Jeep. On suspicion, he apprehended the accused/respondent with the help of other police officials. Four bags were lying in the said Jeep. He told the accused/respondent that he is suspecting some intoxicating substance in the bag lying in the Jeep and he had told him about his right to get his search conducted before a Gazetted Officer or a Magistrate. Accused/respondent opted to get search conducted in the presence of a Gazetted officer. Memo in this respect Ex.PJ was prepared and he had sent a wireless message to call a Gazetted Officer at the spot and after sometime, DSP (D) Mansa Teja singh had come at the spot with gunmen who disclosed his identity to the accused/respondent and asked him whether he wanted to get his search conducted before him or a Magistrate. Accused/respondent opted to get his search conducted in the presence of DSP Teja Singh and in this regard, Ex.PF was prepared and the search of the Jeep HR-10B-9867 was conducted from where four bags containing poppy straw were recovered. From each bag, two samples of 100 gram were taken out and contained in a parcel. The remaining poppy straw was weighed and it came out 30/30 Kg. including the weight of the bag and made four parcels. All the parcels were sealed by him with a seal bearing impression 'HS'. Sample seal was prepared at the spot and sealed after use, was handed over to PW Baljinder Singh. The entire case property along with Jeep and driving licence (Ex.PK) were taken into possession vide memo (Ex.PG). He sent a *rukka* (Ex.PL) to the police station on the basis of which FIR (Ex.PL/1) was recorded by ASI Magdoor singh. The case property of this case has been destroyed by the Committee, constituted by the Government. The



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copy of the order is Ex.PM. I had also seen Register No. 19 wherein entry had been recorded qua destroying of the case property. He had prepared a rough site plan (Ex.PN) with correct marginal notes. On the personal search of the accused/respondent, an amount of Rs. 120/- was recovered and the same were taken into possession vide memo Ex.PH. On return to the police Station, he had produced the accused/respondent and entire case property before SHO Balwinder Singh, who verified the investigation, interrogated the accused/respondent, affixed his seal bearing impression 'BS' on all the parcels of case property and prepared the sample seal Ex.P1. SHO kept the case property in his custody. On receipt of the report of the FSL(Ex.PE/1) and completion of investigation, SHO Balwant Singh, prepared the report u/s 173 Cr.P.C. He further deposed that in the arrest memo, time of arrest was not mentioned. The place of recovery falls in the revenue limit of Fata Maluka and PW Baljinder Singh belongs to village Jhunir. He had denied the fact that independent witness is a stock witness of Police and he did not know the independent witness prior to this case. He had admitted that DSP did not put a date under his signature. ASI Harpal Singh could not tell the distance of the village of accused/respondent from the place of recovery. He deposed that the accused/respondent had disclosed that he had brought the poppy straw from village Jhorarh in Haryana and he had brought the same at village Makhewala, where he is married. No action was taken against the persons of Mathewala i.e. relatives of the accused/respondent. Since I had already Joined independent witness so he did not feel it necessary to call independent witness from village.



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He had denied that due to enmity of Baljinder Singh, the accused/respondent had been falsely implicated in this case.

12. Other prosecution witnesses are formal in nature and their depositions need not to be reiterated.

13. After closing the prosecution evidence, the statement of the respondent/accused was recorded under Section 313 Cr.P.C. in which he denied the allegations of the prosecution and pleaded his false implication. He deposed that all the witnesses are police officials. The private witness is a stock witness of the police and he had good relation with the police. He further deposed that the private witness had some dispute of money with his brother-in-law who belongs to village Makhewala. He also deposed that on 22.05.2003, he met his relatives and police arrested him and false case was planted upon him.

14. In his defence, the respondent had produced two defence witnesses i.e. DW1 Baljinder singh deposed that his shop is situated near the police station. He did not know Leela Singh (accused/respondent) and he had seen him firstly in the Court. The police had obtained his signatures on routine in many cases as witness. In this case the police called him in the police station and obtained his signatures on blank papers. He had denied the fact that on 22.05.2003, he had joined the Police party headed by ASI Harpal Singh and the accused/respondent was apprehended in the revenue limit of Fatta Maluka from whom four bags of poppy straw were recovered from his Jeep No.HR-10B-9867. DW-2 Constable Gurtej Singh 701, P.S. Jhunir, who was re-called for further examination in chief, had deposed that he had brought original roznamcha from Police Station Jhunir, from which he tendered photocopy of



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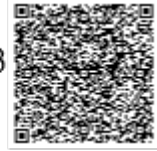
rapat No.15 (EX.D4), Rapat No.28 (Ex.D5) and rapat no.10 (Ex.D6). He further deposed that he had no knowledge about the case. Vide DDR No.5 dated 22.05.2003, ASI Harpal Singh left the police along with police party for patrolling duty. On 23.05.2003 vide DDR No.14, SHO Balwinder Singh left the police station for producing the accused/respondent and case property in the Court. He also deposed that in this case, the case property was destroyed by the Committee constituted by the Govt. in the year 2004 and entry was made qua disposal in Register No.19 for the year 2004. He had not brought Register No.19 for the year 2004.

15. Other prosecution witnesses are formal in nature and their depositions need not to be reiterated.

16. After carefully hearing the arguments of the learned counsel for the parties and going through all the evidence on record, this Court finds that the Trial Court had correctly analyzed the facts and rightly given the benefit of doubt to the accused/respondent.

17. The prosecution claims that on 22.05.2003, four bags containing a total of 120.8 kg of poppy straw were recovered from a Jeep driven by the accused and all legal procedures under the NDPS Act were properly followed. However, there are major contradictions regarding the role of Baljinder Singh, who was shown as an independent witness.

18. Baljinder Singh appeared in Court as DW-1 and clearly won-over by the accused/respondent. He deposed that he was not present at the recovery site and had seen the accused/respondent for the first time in court. He also



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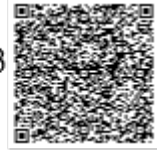
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stated that the police had taken his signatures on blank papers at the police station.

19. PW-3 ASI Harpal Singh (Investigating Officer) had admitted that he made no effort to include any local person from village Fatta Maluka, where the recovery supposedly took place. Instead Baljinder Singh, who had a shop near the police station and was already known to PW-5 HC Ganga Ram, who was included as a witness, which raises serious doubts about whether he was truly independent.

20. There are also serious doubts about the chain of custody and seal handling. DW-1 Baljinder Singh denied ever getting the seal, which contradicts the Investigating Officer's version. Additionally, Form No. 29 shows that the samples were numbered 1 to 4 but these numbers do not appear in the recovery memo or rukka. This makes it unclear which sample came from which bag. Also, the samples were not marked as original or duplicate, raising questions about their reliability.

21. The prosecution witnesses gave conflicting statements about where the poppy straw came from Sirsa or Fatehabad while others have said village Jhorarh in Haryana. This supports the claim of the defence that the accused/respondent had simply gone to visit his in-laws in village Makhewala and was falsely framed due to an old dispute.



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22. Although the case property was stored in the Malkhana on 23.05.2003 (next day) but there is no record to show that his family was informed about his arrest. This shows a failure to follow proper legal procedures.

23. Moreover, DW-2 Constable Gurtej Singh had brought the official reports (rapats/DDRs) confirming the police party's movement but admitted that Register No. 19, which records the destruction of the case property, was not produced, which further weakens the evidence.

24. In view of the aforementioned facts and circumstances of the case, we do not find any infirmity or illegality in the judgment of the trial Court acquitting the respondent for the offence punishable under Sections 15, 25 & 60 of the NDPS Act, by giving him the benefit of doubt and the appeal is, hereby, dismissed.

25. Pending application, if any, shall stand disposed of accordingly.

(MANJARI NEHRU KAUL)
JUDGE

02.08.2025
A.Kaundal

(H.S.GREWAL)
JUDGE

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