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

(315)

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Date of decision : 19.08.2025

State of Punjab

... Appellant

Versus

Kheta Singh and others

... Respondents

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

Present:- Mr. Amit Rana, Senior DAG, Punjab  
for the appellant.

Mr. J.S. Dhaliwal, Advocate  
for respondent No.1.

Ms. Simerpreet Sekhon, Advocate (*Amicus Curiae*)  
for respondents No.2 to 4.

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**H.S. Grewal, J.**

1. The present appeal has been preferred by the State against the judgment dated 27.09.2004 passed by the learned Judge, Special Court, Mansa in case FIR No.22 dated 08.03.2002, under Section 15 of the NDPS Act, registered at Police Station Sadar Mansa, whereby the respondents had been acquitted of the charges by giving them the benefit of doubt.

2. The case of the prosecution is that on 08.03.2002, Investigating Officer SI/SHO Hardevinder Singh along with police officials, namely, ASI



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Pawan Kumar, HC Yadwinder Singh, HC Mela Singh, Constable Harinder Singh, Constable Harpal Singh, and PHG Gurmeet Singh were on patrolling duty in a government canter being driven by HC Rulda Singh near Bus stand of village Khurd where one person, namely, Dhian Singh s/o Mukhtiar Singh met them. In the meanwhile, SI/SHO Hardevinder Singh had received a secret information that Gurmail Singh @ Gela s/o Dalip Singh in his truck bearing No.RJ-13G-2545 along with Pargat Singh s/o Kaur Singh, Gural Singh alias Pal Singh and Kheta Singh son of Sukhdev Singh are involved in selling poppy straw by bringing it from Rajasthan. On that day also, they have brought poppy straw in the Truck from Rajasthan and had jointly proposed to sell the same in village Moosa, Daliwali etc. He was further informed that in case, nakabandi could have been conducted then all these persons along with truck with poppy straw could have been apprehended.

3. In view of the aforesaid secret information, SI/SHO Hardevinder Singh had sent a wireless message to Police Control Room, Mansa that some Gazetted Officer should be sent at bus stand village Nangal Khurd. After half an hour at about 01:00 PM, DSP Daljit Singh, Mansa along with his gunman reached at the spot. Thereafter, SI/SHO Hardevinder Singh along with police officials, Dhian Singh as well as DSP Daljit Singh had set out nakabandi on the bridge of canal minor situated in the revenue estate of village Gagowal. About 15 minutes thereafter, one truck bearing registration No.RJ-13G/2545 was seen coming which was being driven by Kheta Singh s/o Sukhdev Singh. The truck was intercepted by the Investigating Officer by giving a signal. He was known personally by the police officials. At once, the driver applied breaks to the truck



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to stop it but later, he had tried to run away. He was apprehended with the help of police officials. In the meanwhile, three persons, who were sitting in the truck on the bags, ran away by jumping out from the truck. The police officials have identified them as Pargat Singh s/o Jora Singh, Gurmail alias Gela s/o Dalip Singh and Gurpal Singh alias Pal Singh. Although they were chased by the police party but they managed to escape. Thereafter, DSP Daljit Singh told Kheta Singh (accused) that the bags lying in the body of the truck had been suspected to be having something intoxicant. These bags were required to be searched but he had a right for search of the truck in the presence of any Magistrate or any Gazetted officer. Then DSP Daljit Singh was told by Kheta Singh that he wanted search of the bags lying in the body of the truck in presence of any Gazetted officer. DSP Daljit Singh told kheta Singh that he is a Gazetted officer of the Punjab Government. If he wanted then another Gazettea officer or Magistrate could be brought to the spot. Then Kheta Singh told that he wanted search of the bags lying in his truck at the spot. Then SI/SHO prepared consent memo which was thumb marked by Kheta Singh. The witnesses attested the same. On the directions of DSP Daljit Singh, SI/SHO Hardevinder Singh got unloaded the bags from the body of the truck which were 08 in numbers. The bags contained poppy straw. The recovered begs were marked from 1 to 8. From each of the bags, two samples of 100 grams each were taken out and were made into parcels. These parcels were numbered from 1 to 6. Remaining poppy straw in each of the bag after weighing came to be 35 kgs of poppy straw. The remaining poppy straw was kept in the same bag and were made into parcels separately. All of the parcels of samples and bulk



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were sealed with the seal bearing impression 'HS'. Sample seal was separately prepared and the seal after use was handed over to Dhian Singh. The truck No RJ-13C-2545 vide separate recovery memo was taken into possession by the police which was attested by the witnesses Dhian Singh, ASI Pawan Kumar and DSP Daljit Singh. On personal search of Kheta Singh, currency notes totalling Rs.465/- were recovered which were taken into police possession vide separate recovery memo. Statements of the witnesses were recorded. On 09.03.2002, the case property was produced in the Court which was ordered to be deposited with Moharir Malkhana. Since there was no space in judicial malkhana, SI/SHO Hardevinder Singh had kept case property in his possession. The samples were sent to forensic Science Laboratory, Punjab, Chandigarh and the report was received opining the samples to be of 'Bhuki post Chura'.

4. On 12.03.2002, accused/respondent-Gurpal Singh was arrested while other accused-Gurmail Singh and Pargat Singh were being proceeded against for declaring them proclaimed offenders. On 04.06.2002, the statement of HC Gurnam Singh was recorded in this regard. After completion of investigation, challan was presented against accused/respondents Kheta Singh and Gurpal Singh presented and the charges under Section 15 of the NDPS Act were framed against them to which they pleaded not guilty and claimed trial.

5. Learned State counsel submits that the learned trial Court has erred in acquitting the respondents while there was sufficient material led by the prosecution in its right perspective. All the mandatory provisions of law have been complied with. He also submits that although one independent



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witness-Dhian Singh was joined by the police party but he had been won over by the accused/respondents so he had been given up. The accused persons were properly identified by the prosecution witnesses. He, therefore, prays for setting aside the judgment of acquittal and the respondents be convicted for the offence punishable under Section 15 of the NDPS Act.

6. On the other hand, learned counsel(s) for the respondents submit that the trial Court had rightly acquitted the respondents by giving them the benefit of doubt as the prosecution has not been able to prove any of the offences against any of the respondents beyond reasonable doubt. He also submits that there is non-compliance of Sections 42, 50 and 55 of the NDPS Act. The independent witness had not supported the case of prosecution. There are several discrepancies in the evidence of the prosecution witnesses. There is no proper and legal identification of the accused/respondents. He, therefore, prays for dismissing the appeal and upholding the judgment of the trial Court.

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

8. In order to prove its case, the prosecution has examined PW-1 Inspector Hardevinder Singh, PW2 C-II Parwinder Singh, PW3 SI Jagmail Singh, PW4 ASI Amarjit Singh, PW5 ASI Pawan Kumar, PW6 DSP Daljit Singh, PW7 ASI Gurdarshan Singh and PW8 SI Balwant Singh.

9. All the prosecution witnesses have reiterated the version as mentioned in the FIR and had apprised about the link evidence.



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10. The statements of the respondents/accused were recorded under Section 313 Cr.P.C. wherein they have stated that they have been falsely implicated in this case. Accused/respondent-Kheta Singh had pleaded that he is a resident of village Lohgarh in Haryana State and his sister is married at village Daliewali and he had come to meet his sister. He also deposed that SHO Hardevinder Singh had enmity with him due to which he had been falsely implicated in this case. No recovery had been effected from him. Moreover, he was not present at the spot. Similarly, accused/respondent Pargat Singh had pleaded that SI/SHO Hardevinder Singh had enmity with Gurmail Singh, who is his cousin. He was neither present on the spot nor anything was recovered from him. In defence, they had examined DW1 Dhian Singh s/o Mukhtiar Singh, who had categorically stated that the police had obtained his signatures on blank papers. He did not know the respondents and nothing had been recovered in his presence.

11. The trial Court, after examining the evidence led by the prosecution, had acquitted all the respondents by giving them the benefit of doubt.

12. After carefully hearing the arguments from 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 gave the benefit of doubt to the accused/respondents for the reasons that mandatory provisions of law under the NDPS Act were not followed, there were material contradictions in the statements of police witnesses and the independent witness did not support the prosecution case.



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13. The prosecution case primarily rests upon the secret information about a particular truck and persons allegedly transporting poppy straw. However, the record does not establish that this information was reduced to writing and promptly forwarded to a superior officer as mandated under Section 42 of the NDPS Act. This is not a mere technical lapse but it goes to the root of the legality of the search and seizure. The omission materially weakens the prosecution's foundation.

14. Although the prosecution affirmed that a Gazetted Officer (PW6 DSP Daljit Singh) was called and a rank/consent memo was prepared but there is no credible written notice showing that an informed choice was actually made. The prosecution witnesses have contradicted with regard to the arrival time of PW6 DSP Daljit Singh, how long he stayed and what he supervised. PW6 DSP Daljit Singh, who was a recovery witness, had neither put any date under his signatures while attesting the recovery memo nor put his own seal thereunder. Even assuming that Section 50 is not attracted to a search of a vehicle and bags, these contradictions erode the reliability of the spot proceedings and the claimed safeguards.

15. The independent witness-Dhian Singh, to whom the seal was allegedly entrusted, categorically denied the handing over of the seal and the recovery itself, stating that his thumb impressions were taken on blank papers. Further, the Investigating Officer had retained the case property due to lack of space in the malkhana. Such custody outside the judicial malkhana, without



clear safeguards, creates a serious risk of tampering and breaks the chain of custody.

16. There are substantive inconsistencies regarding the device and method of weighment, the number/marking of sample parcels and whether the bags had printed markings or not. These are not trivial clerical errors but they cut to the integrity of the seizure and sampling, which are the foundation for linking the seized bulk to the samples analyzed by the FSL.

17. The only independent witness (DW-1 Dhian Singh) cited by the prosecution, did not support the prosecution version and had demolished it. In a public-place recovery with multiple officials present, the collapse of independent corroboration assumes greater significance especially under a stringent statute like the NDPS Act.

18. It is hard to believe that in the presence of a large police party, armed and led by a DSP, three men could have jumped off a truck loaded with contraband and escaped. The officers gave conflicting statements about the direction in which the men fled, how far they were chased, and how long the pursuit lasted. These contradictions are significant, as they undermine confidence in the prosecution's main story about who was present and what really happened.

19. The site plan and oral evidence do not clearly show the exact place of recovery. The prosecution claims it happened within the revenue estate of village Gagowal, but the nearby fields are shown as belonging to people from



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village Moosa. This mismatch creates doubt about the exact spot where the truck was searched, which weakens the credibility of the investigation story.

20. Although the FSL report confirms that the analyzed samples contained poppy-straw but its value as evidence depends on a clear and reliable chain of custody from the time of seizure until it reached the lab. Since there are doubts about how the samples were sealed, the fact that they stayed with the Investigating Officer instead of being deposited in the malkhana, and the independent witness's denial about the seal, the chain of custody becomes doubtful. A negative assumption cannot take the place of the prosecution's duty to clearly prove that the chain was unbroken and untampered.

21. In view of the above, we do not find any infirmity or illegality in the judgment of the trial Court acquitting the respondents for the offence punishable under Section 15 of the NDPS Act and the appeal is, hereby, dismissed.

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

**(MANJARI NEHRU KAUL)**  
**JUDGE**

**19.08.2025**  
**A.Kaundal**

**(H.S.GREWAL)**  
**JUDGE**

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