



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

422-2

CRA-S-1024-SB-2007 (O&M)

Date of decision: 10.03.2025

Jarnail Singh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

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

Mr. Harkesh Kumar, AAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

1. The prayer in the present appeal is to set aside the judgment of conviction dated 30.01.2007 and order on quantum of sentence dated 31.01.2007 passed by learned Judge, Special Court, Kurukshetra whereby the appellant was convicted and sentenced for the offence punishable under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter 'NDPS Act'), in the case stemming from FIR No.152 dated 25.04.2002, PS: Shahabad, Kurukshetra.

2. The appellant was sentenced as mentioned below:

Offence	Sentence
Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985	Rigorous imprisonment for a period of 4 months and 3 days and to pay fine of Rs.2,500/- and in the event of default of payment of said fine, to further undergo simple imprisonment for one month.



Factual Background

3. Brief facts of the case are that on 25.04.2002 as per a secret information given by an informer to ASI Avtar Singh, Ram Karan alias Kala was a smuggler of narcotic drugs and few days ago, he supplied poppy husk to Ram Lal, owner of Suraj Dhaba situated on G.T.road for sale thereof. He further informed that few days earlier CID Crime Branch, Haryana recovered poppy husk from Suraj Dhaba and since then Ram Lal was evading his arrest. In his absence, his wife Smt. Meena engaged her servant Jarnail Singh (appellant) to sell the smack and poppy husk on the said dhaba. Thereafter a raid was conducted at the dhaba, where appellant was found standing on the counter of the Dhaba. In the presence of gazetted officer search was conducted and a white polythene containing smack was recovered from the pocket of appellant. Hence, FIR (supra).

Contentions

4. Learned *Amicus Curiae* submits that the learned Court below has fallen into grave error in convicting the appellant, as his guilt has not been proved beyond reasonable doubt. He contends that the learned Court has not taken into consideration that no independent witness was made to join and only police officials were witnesses of the recovery. Moreover, the mandatory provisions of Sections 42 and 52 of the NDPS Act were not complied with and the onus was on the prosecution to prove so. Further, there was discrepancy with regard to



the sample taken out, sent to FSL and received back. Further, different statements given by the official witnesses about their presence at Suraj Dhaba of village Dhola Majra and Suraj Dhaba of village Teora.

4. *Per contra*, learned State counsel opposes the prayer of the appellant as the learned Court below has passed a well-reasoned judgment based on correct appreciation of evidence available on record as such, he does not deserve any leniency.

Observations And Analysis

5. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the appellant was convicted for being in possession of 42 grams of smack, which falls under the purview of Section 21 NDPS Act. The arguments of learned counsel for the appellant with regard to non-compliance of Sections 42 and 50 of the NDPS Act are misconceived, as report under Section 42 of the NDPS Act was given by the Investigating Officer within 72 hours as per the requirements of the Act. Further, the accused was arrested after serving memo under Section 50 of the NDPS Act and intimation regarding his arrest was also sent to his relatives.

6. Moreover, since all the officials reached at the same Suraj Dhaba, there remains no confusion in regards to the location of Suraj Dhaba owned by the co-accused. Further, the official witnesses have presented a consistent case that leaves no room for tampering with the sample. In addition to that, the lack of an independent witness cannot be said to make a dent in the case of the prosecution as nothing has been



brought on the record that would indicate any animosity between the official witnesses and the appellant.

7. As per the custody certificate, he is not involved in any other case and has already undergone an actual sentence of 4 months 3 days, in the instant case. Since there is no minimum punishment prescribed under Section 21 of the NDPS Act, this Court is of the opinion that the present appeal shall be dismissed and judgment and order dated 30/31.01.2007 passed by the learned Judge, Special Court Kurukshetra are upheld.

Conclusion

8. Therefore, in view of the discussion above, the present appeal is dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.

9. The High Court Legal Services Authority is directed to remunerate the learned *Amicus Curiae* as per rules.

(HARPREET SINGH BRAR)
JUDGE

10.03.2025

yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No