



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

CRA-S-807-2025 (O&M)

Date of Decision: 02.04.2025

Gurjant Singh ...Appellant
Versus
State of Punjab ... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Vipin Mahajan, Advocate
for the applicant-appellant.

Mr. I.P.S. Sabharwal, DAG, Punjab.

N.S.SHEKHAWAT, J.

1. The appellant has preferred the present appeal against the impugned judgment and order dated 19.02.2025 passed by the Special Court, Gurdaspur, whereby, the appellant was held guilty for the commission of the offence punishable under Section 22(b) of the Narcotic Drugs and Psychotropic Substance Act, 1985 (in short '**the NDPS Act**') and was sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs. 5,000/-, alongwith the default stipulation.

2. During the course of arguments, learned counsel for the appellant made a statement that he does not wish to challenge the judgment of conviction, however, some leniency may be shown while awarding the sentence to the appellant. Even, the learned counsel for the appellant does not challenge the judgment of conviction, still, this Court has perused the evidence led by the parties and has examined the case on merits.

3. As per the case of the prosecution, on 21.11.2020, ASI Pawlinder Singh was present at Police Station Kalanaur and received

a secret information that Pargat Singh ASI detained Gurjant Singh son of Satnam Singh resident of village Kamalpur near Bus Stand Mojowal, who was going on his motorcycle and had thrown one polythene packet, after taking it out from his pocket, when he was spotted by the police. ASI Palwinder Singh went to the spot and met the police party. The motorcycle, contraband and Gurjant Singh were handed over to ASI Palwinder Singh, who conducted the proceedings at the spot and tried to join the independent witnesses, before checking the contents of the polythene pouch. However, no independent person was willing to join. He checked the contents of the polythene pouch, which was thrown by the appellant/accused and 115 loose intoxicating tablets were found in the same. It was found that the appellant was carrying the tablets, without any permit or licence. Consequently, after following the due process of the law, the tablets were kept in a parcel and it was sealed by ASI Palwinder Singh. Thereafter, ASI Palwinder Singh, produced the accused, motorcycle and aforesaid parcel before Amandeep Singh SI/SHO and he embossed his separate seal bearing impression 'AS' on the parcel and kept the same in his safe custody. Next day, the accused and the case property were produced before the Court of Judicial Magistrate and the Magistrate had certified the correctness of the inventory and again sealed the parcel with his own seal. Thereafter, the tablets were sent to RTFSL, Amritsar for chemical examination. After receipt of FSL report, it was found that the tablets contain Alprazolam salt and

the quantity of the tablets was found to be intermediate quantity, as per the schedule appended to the NDPS Act.

4. After the presentation of the challan, charge under Section 22(b) of NDPS Act was framed against the appellant and he pleaded not guilty and claimed trial.

5. In order to prove its case, the prosecution examined six witnesses, namely, ASI Pargat Singh as PW1, ASI Palwinder Singh as PW2, ASI Harpal Singh as PW3, Lukesh Sharma from RTO Office Gurdaspur as PW4, ASI Palwinder Singh as PW5 and Inspector Amandeep Singh as PW6.

7. After closer of the prosecution evidence, the statement of the appellant was recorded under Section 313 Cr.P.C. and he had denied all the evidence appearing against him and pleaded his false implication. Even, he examined two witnesses in his defence, i.e., Hazara Singh as DW1 and HC Gagandeep as DW2.

8. The main allegation against the present appellant is that he was found in conscious possession of 115 loose intoxicating tablets and when the tablets were examined by the FSL, the same were found to be containing Alprazolam salt of intermediate quantity. To prove the case, the prosecution had examined ASI Pargat Singh as PW1, who had apprehended the appellant on the basis of suspicion while he was coming on the motorcycle. The appellant had thrown the polythene pouch on the road, when he was signaled to stop by the police party. He called the IO at the spot and ASI Palwinder Singh reached at the spot where the appellant was handed over to him and

his statement Ex.P1 was recorded. The testimony of PW1 Pargat Singh has been supported by PW2 ASI Palwinder Singh, who was the IO of the present case. He had taken into possession 115 loose intoxicating tablets vide recovery memo Ex.P2 and also prepared the sample seal. He had proved the seizure memo of motorcycle as Ex.P3, rukka Ex.P-4, FIR Ex.P-5, site plan of place of recovery Ex.P-6, arrest memo of accused Ex.P-7 and personal search memo Ex.P-8. He also produced the case property and the accused before the SI/SHO Amandeep Singh, who had also affixed his seal on the parcel and has kept the parcel in his safe custody. The prosecution further examined PW3 ASI Harpal Singh, who was a witness of recovery memo and had supported the statement of PW1 ASI Pargat Singh and PW2 ASI Palwinder Singh. The prosecution further examined Lukesh Sharma, an official of RTO Office, Gurdaspur, as PW4, who proved the application for verification of the ownership of motorcycle, which was taken into possession by the police. He proved the report as Ex.PW4/C and the certificate under Section 65-B of Indian Evidence Act as PW4/D. ASI Palwinder Singh No. 890 appeared as PW5, who had deposited the parcel in the office of RTFSL intact and same condition and clearly stated that the sample was not tampered by anybody till it remained in his possession. Amandeep Singh was examined as PW6, who was posted as SHO at Police Station Kalanaur and proved the investigation in the present case;

9. On the other hand, the accused had examined DW1 Hazara Singh, President of the Gurudawara Sahib of village

Kamalpur. He stated that at about 08.30 p.m. on 21.11.2020, some police officials from Police Station Kalanaur came to the house of the petitioner and took him to the police station on the pretext that he was required for questioning. Later on, he was falsely implicated in the present case. DW2 HC Gagandeep had brought the list of villages falling under the jurisdiction of Police Station Sadar Gurdaspur and proved the same as Ex.DW2/A. In the present case, the present appellant was initially apprehended by PW1 ASI Pargat Singh, who had called PW2 ASI Palwinder Singh at the spot. Both the witnesses had clearly proved the recovery of 115 intoxicating tablets from the conscious possession of the appellant/accused, who had thrown the polythene pouch on the ground on seeing the police party. Even, ASI Harpal Singh also categorically stated that the recovery was effected from the present appellant and had supported the case of the prosecution. All the three witnesses were searchingly cross-examined, but their testimonies could not be impeached in any manner. Apart from that, from a perusal of the prosecution evidence, it was apparent that all the mandatory provisions of NDPS Act were complied by the police officials while conducting the search and seizure in the present case. Even otherwise, this Court has carefully perused the evidence led by the prosecution and found the same to be credible and trustworthy. Even, the prosecution witnesses have been cross-examined at length and there is no ground to disbelieve their truthful submissions. Still further, even, learned counsel for the

appellant could not show that there was any material irregularity or illegality in the impugned judgment.

10. As a consequence, the conviction of the appellant under Section 22(b) of the NDPS Act is ordered to be upheld.

11. Now, advertent to the order of sentence, this Court is conscious of the fact that the FIR in the present case was registered on 21.11.2020 and the appellant is facing the prosecution for the last more than 04 years. Even, he was sentenced to undergo rigorous imprisonment for a period of 06 months and to pay a fine of Rs.5,000/- by the trial Court. Today, the custody certificate has been filed in the Court by the learned State counsel and as per the custody certificate, he has undergone the sentence of 02 months out of total sentence of 06 months. The appellant is a young man aged about 27 years and is sole bread winner of the family. Apart from that, he was never involved in any other criminal activity and as per the evidence led before the trial Court, prior to the present FIR, he was staying abroad to earn his livelihood. Consequently, taking in view the aforesaid circumstances, the sentence imposed on the present appellant is reduced to the period already undergone by him. However, the sentence of fine is increased to Rs.1,05,000/-. Out of the total amount of fine of Rs. 1,05,000/-, the appellant shall deposit a sum of Rs. 1,00,000/- in the account of Punjab and Haryana High Court Bar Clerks Association within a period of 02 months from today, whereas, an amount of Rs.5,000/- shall be deposited with the trial Court within a period of 02 months from today. In case, the

amount of fine is not deposited by the present appellant, as mentioned above, the present appeal shall be deemed to be dismissed.

12. The appellant may be released from custody forthwith, if not on bail and if not required in any other case.

13. With the above modifications, the present appeal stands partly allowed.

14. All pending applications, if any, are disposed off, accordingly.

02.04.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

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