

2025:PHHC:090302



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

300

CRA-S-2036-SB-2017

Date of decision: July 22, 2025

STATE OF PUNJAB

.....Appellant

Versus

KARAMVIR RANA @ MONU RANA

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J.

1. The instant appeal has been preferred by the State of Punjab challenging the judgment dated 16.01.2017 passed by the learned Judge, Special Court, Patiala, whereby the respondent-accused Karamvir Rana @ Monu Rana was convicted under Section 22(a) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the 'NDPS Act') for possession of a small quantity of narcotic substance. The grievance of the State in the present appeal is limited to the finding of the learned trial Court that the quantity of the recovered contraband fell within the "small quantity" category and not the "commercial quantity" category.

2. The prosecution case, as unfolded during trial, was that on 15.04.2013, ASI Darshan Singh, along with other police officials, was on patrolling duty near the PRTC Workshop, Patiala, when he noticed a man coming from the opposite direction carrying a bag. Upon seeing the police party, the man appeared perplexed and attempted to retreat, arousing suspicion. The police apprehended him and identified him as Karamvir Rana @ Monu Rana, resident of Patiala.



3. ASI Darshan Singh disclosed his identity and informed the accused of his legal right to be searched in the presence of a Gazetted Officer or a Magistrate. However, the accused expressed confidence in the Investigating Officer and consented to be searched by him. A consent memo (Ex. PW-2/A) was accordingly prepared and duly signed by the accused and attested by Head Constable Harjeet Singh and Head Constable Suraj Parkash.

4. Upon search of the bag carried by the accused, three polythene envelopes were recovered. The first envelope contained 2832 loose blue-coloured capsules of SPM-PRX. The second envelope contained 480 loose maroon-coloured capsules of PARVONSPAS. The third contained 2000 tablets of white-coloured tablets. Two representative samples of 10 capsules/tablets each were drawn from each envelope, sealed with the seal of the Investigating Officer bearing the impression 'DS', and specimen seal chit was prepared (Ex.P-1). The case property was seized vide memo Ex.PW-2/B.

5. The *ruqa* (Ex.PW-2/C) was sent to the police station, where FIR No.31 dated 15.04.2013 was registered (Ex.PW-2/D). The accused was arrested and produced along with the case property before the SHO, who also affixed his seal bearing impression 'SS' on the parcels. Thereafter, the case property was deposited with MHC Jeet Singh.



6. On 16.04.2013, the accused and case property were produced before the learned Chief Judicial Magistrate, Patiala, who passed appropriate orders for judicial custody and directed that the sample parcels be deposited in the judicial *malkhana*. Subsequently, on 22.04.2013, Head Constable Sita Ram took the sealed sample parcels to the FSL, Mohali, but could not deposit the same on the same day due to certain objections. The parcels were re-submitted and re-dispatched on the following day i.e. 23.04.2013 to FSL after resolution of objections.

7. The FSL report (Ex.PW-1/A) confirmed the presence of *Dextropropoxyphene Napsylate* in the blue and maroon capsules and *Diphenoxylate Hydrochloride* in the white tablets. The bulk of the prosecution evidence comprised testimonies of ASI Darshan Singh, HC Harjit Singh, HC Sita Ram, ASI Sukhdeep Singh (then SHO) and HC Jeet Singh (MHC), all of whom supported the case of the prosecution.

8. The statement of the accused under Section 313 Cr.P.C. was recorded, in which he denied the prosecution version and claimed false implication. He led defense evidence by examining HC Narinder Singh (DW-1), who produced a copy of register No.19 (Ex.D-1).

9. Learned State counsel has argued that the learned trial Court erred in holding the recovered contraband to be of “small quantity” merely because the entire bulk was not sent for forensic analysis. He contended that representative samples of each variety of capsules/tablets were duly



collected and sent to FSL, as per the orders of the learned Magistrate. The prosecution complied with all procedural mandates and there was no tampering or break in the chain of custody. The findings of the learned trial Court, as per the learned State counsel, are, therefore, contrary to law and the evidence on record, and hence, he deserves to be convicted under Section 22(c) of the NDPS Act.

10. I have heard learned counsel for the appellant and carefully considered the submissions made by the learned State counsel and perused the relevant material placed on record.

11. It is not in dispute that on 15.04.2013, recovery was made from the respondent-accused and that he was not in possession of any valid permit/license for possessing the said drugs. The case property was appropriately sealed, and the seals were intact, when examined by the FSL. The evidence of PW-4 HC Sita Ram and PW-3 HC Jeet Singh, corroborated by documentary evidence, establishes that the samples remained in safe custody and were deposited in the FSL in a timely manner. Further, on receipt at the FSL, Mohali, the case property was found in an intact condition.

12. The core question that arises is whether the prosecution was justified in treating the entire recovery as “commercial quantity”, when only a small portion of the loose tablets was actually sent for analysis.



13. The learned trial Court, while passing the impugned judgment and convicting the respondent-accused under Section 22(a) of the NDPS Act for having been found in possession of small quantity of contraband, rightly concluded that in cases where the tablets or capsules are loose and not in sealed strips, and where no steps were taken to homogenize the bulk before drawing representative samples, it is impermissible to presume that the entire bulk contains narcotic substance identical to the tested samples.

14. In the instant case, it is evident that the recovered contraband comprised loose capsules and tablets. There is no evidence that the contents were homogenized or randomly mixed to ensure representativeness of the samples. In such circumstances, the presumption that the remaining untested tablets also contain the same salt as found in the samples, cannot be sustained.

15. This Court, therefore, finds no infirmity in the view taken by the learned trial Court. The prosecution has duly established that samples containing 10 tablets of SPM-PRX, 10 tablets of PARVONSPAS and 10 tablets of Lomotel were sent for analysis. As per the FSL report, the presence of *Dextropropoxyphene Napsylate* and *Diphenoxylate Hydrochloride* in these samples has been confirmed. However, the remaining bulk was not tested and cannot *ipso facto* be considered to contain the same substances, especially in the absence of packaging in strips or any attempt to render the contents homogenous.



16. Thus, what stands proved beyond reasonable doubt is the possession of only small quantity of narcotic substances as per the NDPS Act. The classification of the recovered substances, therefore, cannot exceed the threshold of “small quantity” under the NDPS Act.

17. The appeal, being devoid of any merit, is accordingly dismissed.

July 22, 2025
Jaspreet Kaur

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*