

2025:PHHC:084291



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

CRA S-3267-SB-2017

Date of Decision:14.07.2025

Bharpur Navjot Singh @ Navjot Singh @ Neetu ...Petitioner
Versus
State of Punjab ... Respondent

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

Present : Mr. Madhur Singh, Advocate
for the petitioner.

Mr. Deepinder Singh Brar, Sr. DAG, Punjab.

N.S.SHEKHAWAT, J.

1. The appellant has preferred the present appeal against the impugned judgment and order dated 19.04.2017 passed by the Special Court, Sangrur, whereby, the appellant was convicted for the offence punishable under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, '**the NDPS Act**') and was sentenced to undergo rigorous imprisonment for a period of ten years and also to pay a fine of Rs.1,00,000/- alongwith default stipulation.

2. The brief facts of the case are that on 31.08.2015, a police party headed by SI Pavitar Singh was present at the bridge of minor canal on the government vehicle at about 05.12 p.m., the appellant/accused was seen picking something from the heap of garbage. On seeing the police party, he got perplexed and stood up and was carrying a polythene in his right hand. He threw the

polythene on the heap of garbage and ran towards the fields. He was identified by HC Bhola Singh as Navjot Singh @ Neetu. The police party chased him, but he succeeded to run away. Thereafter, on search of polythene thrown by accused, 30 sealed vials of rexcof each containing 100 mls of Cilpa Company bearing batch No.CP4225, Manufactured in August-2014, Expiry July 2016 and 18 strips of carisoma each strip containing 10 tablets were recovered. Out of the recovered contraband, two samples i.e. one/one vial each and one/one strip each containing 10 tablets of carisoma were separated as samples and converted into parcels. The remaining 28 vials of rexcof and 16 strips of Carisoma were converted into bulk parcel. All the parcels were sealed by Investigating Officer with his seal bearing impression "PS" and seal after use was handed over to HC Jagtar Singh. The entire case property was taken into possession vide separate recovery memo. Ruqa was sent to the police station for registration of case and on its basis, formal FIR was registered. Rough site plan was prepared. Memos were also prepared.

3. During the course of investigation, the appellant was arrested on 07.09.2015 and the statements of the various witnesses were recorded. The case property was sealed by putting the seal impression 'JS' and was deposited with MHC Jagroop Singh. On 01.09.2015, SI Pavitar Singh took the case property from MHC Jagroop Singh and produced the same before the CJM, Sangrur, who

conducted the proceedings under Section 52-A of the NDPS Act. Thereafter, SI Pavitar Singh deposited the case property in judicial Malkhana. MHC Jagroop Singh, sent the sample parcel to FSL Mohali through Constable Ginder Singh. The report of chemical examiner was also received by the IO and after completion of investigation, the *challan* was presented before the Special Court. After presentation of *challan*, the Court found a *prima-facie* case against the appellant and he was charge sheeted for the commission of the offence punishable under Section 21 of the NDPS Act. He pleaded not guilty to the charge and claimed trial.

4. During the course of trial, the prosecution examined PW1 SI/SHO Jatinderpal Singh, who was posted as SHO in Police Station City Sangrur. He has registered a formal FIR Ex.PW1/A on the basis of the rukka. SI Pavitar Singh produced the case property before him alongwith sample seal chit, sealed with the seal bearing impression 'PS' on the same day. He verified the facts of the case from the witnesses and also put his seal impression 'JS' on sample parcel and bulk parcel. The prosecution examined PW2 SI Pavitar Singh, who reiterated the version, as mentioned in the FIR Ex.PW1/A. He also proved various documents including recovery memo Ex. PA, ruqa Ex.PB, FIR Ex.PW1/A, rough site plan Ex.PC, special report Ex.PD, sample seal chit Ex.P1, Chemical Examiner Report Ex.PX, request to Ld. Chief Judicial Magistrate Sangrur Ex

PE, order of the Court Ex.PE/1,, photographs Ex.MO1 to Ex.MO7, sample seal chits Ex.P2 to Ex. P4, application Ex.PF, report of Malkhana Nazir Ex. PG, order of the Court Ex PG/1, arrest-cum-intimation memo Ex. PH, personal search memo of accused Ex. PJ, report of Drug Inspector Ex PY. He proved second sample parcels Ex. MO1 and Ex. MO2, sample parcels Ex. MO3 and Ex. M04. He further deposed that bulk parcel was destroyed as per order of the Chief Judicial Magistrate, Sangrur Ex.PZ on an application Ex. PZ/1. He also identified the accused present in the Court

5. PW3 HC Jagroop Singh proved the link evidence in his deposition. PW4 HC Jagtar was a witness of recovery. Still further, PW5 Constable Ginder Singh carrier of the sample also supported the case of the prosecution and proved the link evidence in his deposition. The prosecution further examined PW6 HC Bhola Singh, who also corroborated the statement of the IO in the present case and the recovery witnesses on all the material points. He further stated that he had identified Navjot Singh @ Nitu on 31.08.2015 while he was fleeing from the spot. He again identified the present appellant, when he was appeared as an accused before the trial Court.

6. After completion of the prosecution evidence, the entire prosecution case was put to the appellant in his statement under

Section 313 Cr.P.C., however, he denied the evidence against him and stated that he had been falsely implicated in the present case.

7. Learned counsel for the appellant argued that in the present case, the case was primarily based on the testimonies of official witnesses and no independent witness was joined at the time of recovery and the prosecution case cannot be believed. Still further, the mandatory provisions of Section 42 of the NDPS Act were not followed in the present case and in absence of compliance of the provisions of Section 42 of the NDPS Act, the appellant has been wrongly convicted by the trial Court. Apart from that, there was delay of 04 days in sending the samples to the FSL, Mohali and this has raised a big question mark with regard to the genuineness of the prosecution. Still further, even, there was serious dispute with regard to the identity of the petitioner. In fact, even HC Bhola Singh did not go with the police party at the time of effecting the arrest of the appellant and no other police officials knew him and, thus, the case of the prosecution is highly doubtful and is liable to be disbelieved by this Court.

8. On the other hand, learned State counsel opposed the submissions made by the learned counsel for the appellant on the ground that in the present case, the official witnesses had been searchingly cross-examined and their testimonies cannot be disbelieved on the ground that at the time of recovery of contraband,

the private witnesses had not joined the search and seizure procedure. In fact, the appellant could not bring on record any material to show that the official witnesses were inimical towards him. Moreover, the examination of independent witnesses is a role of credence and not of necessity. The accused can always be convicted on the basis of the statements of the official witnesses, after the statements are found to be trustworthy and credible. Still further, the provisions of Section 42 of the NDPS Act would not be applicable as it was a case of chance recovery and was not based on any secret information. Even, the case property was kept sealed in the Malkhana and remained in safe custody. Consequently, the delay of 04 days in sending the samples to the FSL would not make any difference. Still further, the official witnesses had seen the appellant in the present case at the time of effecting the recovery and since he is a hardened criminal, other police officials, apart from HC Bhola Singh, also knew him and he was arrested in the present case.

9. I have heard learned counsel for the parties and perused the record.

10. The first submission raised on behalf of the appellant is that due to non-joining the independent witnesses during the search and seizure, the version of the prosecution is liable to be disbelieved by this Court. However, I do not agree with the submissions made by the learned counsel for the appellant in this regard. No doubt, the Courts

always insisted for joining of the independent witnesses at the time of effecting the recovery and this lends credence to the entire procedure of search and seizure. However, in case any such evidence has not been placed on record, it does not mean that the entire prosecution case has to be disbelieved. In the present case, the prosecution had examined PW2 SI Pavitar Singh, PW4 HC Jagtar Singh and PW6 HC Bhola Singh, recovery witnesses. Even, their testimonies conclusively proved the recovery from the present appellant and had withstood the test of cross-examination. There is no material to show that these witnesses were either inimical towards the appellant or had ignored some procedure of law rather their testimony has been found reliable and trustworthy and such statements cannot be discarded only on the ground that same were not corroborated by any independent witness.

11. Still further, it has been argued on behalf of the appellant that the mandatory procedure under Section 42 of the NDPS Act was not followed in the present case. However, I find force in the submissions made by the learned State counsel as in the present case, the police party was on patrolling duty and all of a sudden, they had noticed the present appellant. Even, the prosecution has not submitted that there was any secret information with regard to the activity of the appellant. However, the police officials were on patrolling duty and recovered the contraband from the present appellant. Thus, the

provisions of Section 42 of the NDPS Act would have no application in the facts and the circumstances of the present case.

12. Moreover, in the present case, the prosecution had explained the delay in sending the sample parcels to FSL, Mohali. In fact, after recovery, the case property remained in the custody of PW3 HC Jagroop Singh. On 01.09.20215, the case property was taken from HC Jagroop Singh and the same was produced before the Court of CJM, Sangrur. The CJM again sealed the bulk parcel and the representative samples with her seal impressions. Even, the photographs were taken and the sample was submitted with the FSL, without any tampering. The prosecution examined several witnesses to show that till the time the sample remained in their possession, no person was allowed to tamper with the same. Thus, the proper procedure has been followed by the officials and the arguments raised by the learned counsel for the appellant are liable to be rejected. Still further, even the appellant is involved in several cases and was known to the raiding team. Even, HC Bhola Singh had identified him at the spot and the other officials knew the appellant. Thus, non-joining of HC Bhola Singh at the time of effecting the arrest of the appellant, would not have any adverse effect.

13. Even otherwise, I have carefully gone through the trial Court record as well as the findings recorded by the trial Court and

find no irregularity or illegality in the impugned judgment. Thus, the present appeal sans merits and it is ordered to be dismissed.

14. The case property, if any, may be dealt with as per the rules after expiry of period of limitation for filing the appeal.

15. Records of the Court below be sent back.

14.07.2025

amit rana

(N.S.SHEKHAWAT)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No