

**IN THE COURT OF JAGBIR SINGH MEHNDIRATTA
JUDGE, SPECIAL COURT
FATEHGARH SAHIB
(UID No. PB00296)**

NDPS No.146 of 20.12.2019
CNR No:PBFG010046932019
Decided on:- 03.07.2026

State

Versus

1. Princejeet Singh son of Narinderpal Singh resident of village Latour, PS Mulepur, Tehsil and District Fatehgarh Sahib;
2. Narinder Singh son of Manjit Singh resident of village Reona Ucha, PS Mulepur, Tehsil and District Fatehgarh Sahib;
3. Amrinder Singh son of Sher Singh resident of village Adampur, PS Sirhind, District Fatehgarh Sahib;
4. Sunny Kumar son of Surinder Kumar resident of H.No.150, Devi Nagar, at present House no.105, Hira Nagar, Ambala.

... Accused

**FIR No.50 dated 01.07.2019
U/s 22, 29/61/85 of NDPS Act
P.S. Mulepur**

Present : Ms.Anju Narula, Ld.Addl.Public Prosecutor for the State.
All accused on bail with Sh.Amandeep Bawa Advocate.

JUDGMENT

The above-named accused have been sent up to face trial by the
SHO, Police Station Mulepur, for the commission of offences under Sections
22, 29/61/85 of NDPS Act.

FACTS

2. The material facts of the case are that on 01.07.2019, ASI Naib Singh (Investigating Officer, hereinafter referred to as 'the First IO') was present alongwith the police party on private car, having laptop & printer in

connection with patrolling and search of bad elements at Bridge Canal village Miyapur. Then, at about 9.10 PM, from the side of village Basantpura, one motorcycle was seen to be coming. First IO tried to stop the said motorcycle by giving the signal of torch. However, the motorcyclists, after seeing the police party in front of them, became perplexed and tried to turn back. First IO apprehended the riders of motorcycle with the help of police party and asked about their whereabouts. The driver of the motorcycle disclosed his name as **Princejeet Singh** son of Narinderpal Singh resident of Village Latour. The person sitting between the driver and pillion rider disclosed his name as **Narinder Singh** son of Manjit Singh resident of village Reona Uchha. The pillion rider disclosed his name as Amrinder Singh, son of Sher Singh, resident of village Adampur, PS Sirhind. They were having motorcycle bearing registration no. PB23-N-8792 make Splendor. On the handle of the said motorcycle, one polythene lifafa (bag) was hanging. With the help of torch, First IO saw intoxicant injections in that polythene lifafa/bag. The accused could not produce any valid license or permit for keeping intoxicant injections in their possession. Hence, ruqa was sent through HC Rachhpal Singh by the First IO for registration of the FIR to PS Mulepur. First IO also informed SHO, PS Mulepur, regarding the abovesaid fact and requested him to send another IO on the spot for further investigation. On the request of First IO, ASI Sukhwinder Singh (hereinafter referred to as 'the Second IO') was sent to the place of occurrence. On reaching there, the Second IO saw that the accused namely Princejeet Singh, Narinder Singh and Amrinder Singh alongwith their motorcycle bearing no.PB23N-8792 were present and a polythene pack was tied on the handle of the motorcycle. The polythene pack being transparent, the intoxicant

injections were visible apparently. Second IO tried to join some private witnesses, but they showed their inability to join. In the meanwhile, Kashmir Singh Sarpanch of village Miyanpur reached there who joined the investigation. Thereafter, Second IO apprised the accused about their right to search the police party before the search of polythene lifafa/bag but they reposed faith upon the Second IO and refused to search the police party. Then, Second IO opened the polythene bag and on search of the same, it yielded recovery of **24 vials of Avil 10 ML each bearing batch number 2119004 and MFG date January 2019, Exp.December 2021 and 24 injections of Buprenorphine 2/2 ML each, out of which, 9 injections were bearing batch number 19005 MFG 2/ 2019, Exp. 1/2021 and 5 injections Bipronine 2/2 ML were bearing batch number DA09 MFG 4/ 2019 Exp.3/2021.** Second IO put the recovered injections and vials in the same polythene bag and then by putting the same in a plastic box converted it into a parcel and sealed it with his seal bearing impression 'SS'. Sample seal chit was prepared separately. Seal after use was handed over to ASI Naib Singh. The recovered injections alongwith the sample seal chit and motorcycle were taken into police possession vide separate recovery memo. The spot was inspected and site plan was prepared. Accused were arrested vide their arrest-cum-intimation memo. Statements of witnesses were recorded.

3. On return to the police station, the entire case property, the accused and witnesses were produced before Inspector Bhagwant Singh, SHO P.S Mulepur, who verified the facts from the accused, witnesses and from Second IO. On his satisfaction regarding factum of recovery, he attested the case property as well as sample seal chits by affixing his seal bearing impression 'BS'.

4. On 02.07.2019, Second IO acquired the case property from the MHC and produced the same alongwith accused before learned JMIC Fatehgarh Sahib. Learned JMIC after breaking the seals of the bulk parcel drew 4 representative samples each containing 4 vials of Avil as well as 4 injections of Buprenorphine and sealed them with his seal bearing impression 'BM'. The bulk parcel of 20 injections of Buprenorphine and 20 vials of Avil was also resealed with the same seal impression. Form no.29 was also prepared. Two accused Narinder Singh and Princejeet Singh were remanded to judicial custody whereas accused Amrinder Singh was remanded to 2 days police custody by the Learned JMIC.

5. During police remand, accused Amrinder Singh disclosed that he used to purchase the intoxicating injections from one **Sunny Kumar** resident of Hira Nagar, Ambala, alongwith his accused Princejeet Singh and Narinder Singh. On the basis of the interrogation of accused Amrinder Singh, accused Sunny Kumar was nominated as an accused in the present case. In order to arrest accused Sunny Kumar, the police party conducted raid at Hira Nagar, Ambala and arrested the accused Sunny Kumar. During his interrogation, accused Sunny Kumar suffered disclosure statement and after being made aware about his legal right, he suffered statement that he wanted to get recovered the contraband in the presence of some Gazetted Officer, due to which, information was given to DSP Ajay Kumar, Narcotic Cell, Fatehgarh Sahib, who came present at the spot. The consent memo of accused Sunny Kumar was recorded. Thereafter, DSP alongwith the accused and police party reached at Ambala. It was 12.00 midnight and date changed to 04.07.2019. Then accused Sunny Kumar got recovered a brown coloured bag from an abandoned room of a house. On opening the bag, it yielded

recovery of 13 sealed boxes of Avil, each box containing 25 injections of Avil having batch number 2119003 MFG January 2019, Expiry 2021 and 8 boxes of Buprenorphine injections having batch number RX 146, MFG 2019, Expiry 2021 and 5 boxes of Buprenorphine having batch number DA029 MFG 2019 Expiry 2021. All the recovered injections and vials of Avil were again put into the same bag and converted into a parcel by putting the bag into a plastic bag and sealed with seal of Second IO bearing impression 'SS' and seal of DSP bearing impression 'AK'. Seal after use was handed over to ASI Karamjit Singh. DSP kept his seal with himself. The recovered contraband alongwith sample seal chit were taken into police possession vide separate recovery. The rough site plan of the place of recovery was prepared.

6. On return to Police Station, the entire case property, accused and witnesses were produced before Inspector Bhagwant Singh, SHO, P.S Mulepur, who verified the facts regarding factum of recovery and on his satisfaction, he attested the case property, sample seal chit and affixed his seal bearing impression 'BS' and then handed over the case property to the MHC for depositing the same in safe custody. Statements of witnesses were recorded.

7. On the same day, Second IO took out the case property from Malkhana alongwith both the accused i.e. Amrinder Singh & Sunny Kumar and produced them before learned JMJC Fatehgarh Sahib. Learned Magistrate after breaking the seals of the bulk parcels drew 2 representative samples each containing 2 strips of Buprenorphine & 4 vials of Avil and another bulk parcel and sealed the same with his seal bearing impression 'BM'. Sample seal chit was also prepared. One bulk parcel of 321 injections

Avil and 315 injections of Buprenorphine and one representative sample containing 1 strip of 5 injections of Buprenorphine and 2 injections of Avil sealed with seal bearing impression 'BM' was deposited with Judicial Malkhana and one representative sample of 1 strip containing 5 injections Buprenorphine & vials of Avil duly sealed with seal bearing impression 'BM' along-with sample seal chit was deposited with police malkhana.

8. On 08.07.2019, MHC Mandeep Sharma took out three sample parcels duly sealed with seal bearing impression 'BM' alongwith sample seal chits and put up before SHO, who affixed his **secret code no.006/ 2019** and handed over to MHC Mandeep Sharma. MHC deployed C Kuldeep Singh, who after getting conducted the proceedings from the SSP office, Fatehgarh Sahib, deposited the same in the Forensic Science Laboratory, Phase-IV, Mohali. The report of FSL was received. After completion of the investigation, challan against the accused was prepared and presented in the Court.

SUPPLY OF DOCUMENTS AND CHARGE

9. After presentation of the challan, the accused were supplied with copies of the challan and various documents as envisaged u/S 207 Criminal Procedure Code.

10. A prima-facie case was made out against the accused under Section 22 of NDPS Act against accused Princejeet Singh, Narinder Singh, Amrinder Singh and Sunny Kumar & under Section 29 & 22 of NDPS Act against accused Sunny Kumar. Accordingly, charge was framed against the accused under Sections 22 & 29 of NDPS Act respectively and it was read over and explained to the accused in their simple language, to which the accused pleaded not guilty and claimed trial.

PROSECUTION EVIDENCE

11. In order to prove its case, the prosecution has examined **PW1 ASI Sukhwinder Singh, (Second Investigating Officer)** who deposed on the lines of the prosecution version and proved the steps of investigation taken by him in the present case, which have been mentioned above and are not repeated here, for the sake of brevity. He has proved the **recovery memo Ex.P1, arrest-cum-intimation memo Ex.P2, Ex.P3 and Ex.P4, personal search memo of accused Princejeet Singh Ex.P5, personal search memo of accused Narinder Singh Ex.P6, personal search memo of accused Amrinder Singh Ex.P7, rough site plan Ex.P8, sample seal chit Ex.P9, applications for inventory moved before learned JMIC Fatehgarh Sahib Ex.P11, Ex.P12 and Ex.P13, order of Ld.Magistrate Ex.P14, sample seal chit Ex.P15, form no.29 Ex.P16.**

12. Thereafter, he proved **arrest-cum-intimation memo of accused Sunny Kumar Ex.P17, personal search memo of accused Sunny Kumar Ex.P18, disclosure statement of accused Sunny Kumar Ex.P19, dissent statement of accused Sunny Kumar Ex.P20, consent statement memo Ex.P21, recovery memo Ex.P22, rough site plan of the place of recovery Ex.P23, applications moved before learned JMIC Fatehgarh Sahib for inventory proceedings Ex.P24, Ex.P25 and Ex.P26, orders of Ld.Magistrate Ex.P27 & Ex.P28, sample seal chit Ex.P29, form no.29 Ex.P30, FSL report Ex.P31 and identified the case property in the court i.e. bulk parcels MO1 & MO2, sample parcels MO3, MO4 and MO5, Motorcycle MO6 and identified the accused present in the Court.**

13. **PW2 ASI Naib Singh (First Investigating Officer/ recovery witness)** deposed on the lines of the prosecution version and proved the

initial steps of investigation taken by him in the present case, which have been mentioned above and are not repeated here, for the sake of brevity. He has proved the **ruqa Ex.PW2/1, endorsement Ex.PW2/2** and identified the accused present in the Court.

14. **PW3 Retd.Inspector Bhagwant Singh (the then SHO)**, deposed as under:-

“Stated that on 01.07.2019, I was posted at PS Mulepur being SHO. On the said day, IO ASI Sukhwinder Singh of the present case produced the case property of the present case i.e. one sealed parcel of 24 injection of Buprenorphine and 24 injections of Avil i.e. duly sealed with seal impression of SS and present case details were mentioned on the same alongwith one motorcycle which was bearing registration no. PB-23N-8792 make Splender alongwith witnesses, accused and documents of present case file. I checked the case property and verified the fact of recovery from IO and witnesses. I also inquired the matter from accused. After my satisfaction, I sealed the case property with my seal bearing impression BS and I also affixed my seal on sample seal chit i.e. already Ex.P9.

After that, due to the late hours of 01.07.2019, on the next date i.e. 02.07.2019 at about 12:50 PM, I deposited the case property with the MHC alongwith motorcycle and accused was put behind the bars. My statement was recorded by the IO.

After that on 04.07.2019, during the intervening night of 03.07.2019, I was present at PS Mulepur and on the same day, ASI Sukhwinder Singh/IO produced case property i.e. one parcel of the present case i.e. duly sealed with the seals bearing impressions SS and AK. That parcel contained 13 boxes of Buprenorphine and each box was containing

*25/25 Buprenorphine injection, total 325 injections of Buprenorphine and 13 boxes of Avil, each box containing 25/25 injection of Avil, total 325 injections of Avil alongwith accused namely Sunny Kumar and witnesses before me. I verified the fact of recovery from IO as well as witnesses. I also inquired the matter from accused. After my satisfaction, I sealed the parcel of case property with my seal bearing impression BS and I also affixed my seal on sample chit i.e. **Ex. PW3/1**. I deposited the case property with the MHC and the accused were put behind the bars. My statement was recorded by the IO.*

After that on 08.07.2019, I was present at PS Mulepur, then, AMHC Mandeep Sharma produced 3 sealed sample parcels produced before me for issuing secret code on the same. I checked the parcel and converted the same into another parcel while wrapped in white coloured cloth and sealed with my seal bearing impression BS. I issued secret code 006/2019 on the same and again returned to AMHC Mandeep Sharma to deposit the same at FSL. My statement was recorded by the IO. I identify all the accused present in the Court today.”

15. **PW4 C Kuldeep Singh** tendered his duly sworn **affidavit Ex.PW4/A** regarding depositing of case property with the office of Forensic Science Laboratory, Mohali. He deposed that as long as the case property remained with him neither he tampered with nor allowed anyone to tamper with it.

16. **PW5 HC Varinder Singh** deposed regarding completion of necessary formalities for issuing the UID number from the office of SSP, Fatehgarh Sahib and proved the **entry of the relevant register as Ex.PW5/A**.

17. **PW6 HC Mandeep Sharma (MHC)**, tendered into evidence his

duly sworn affidavit **Ex.PW6/A** regarding depositing and taking out of the case property time and again for the purpose of progress of the investigation of this case. He deposed that so long as the case property remained in his possession he neither tampered with the same himself nor he allowed anyone to tamper the same.

18. **PW7 DSP Ajay Kumar (Gazetted Officer)**, deposed as under:-

“On 03.07.2019, I was posted as DSP Narcotic Cell Fatehgarh Sahib. On the said day, I received telephonic call from control room regarding the present case. As per that information, I reached at Police Station Mulepur, where the IO of the present case namely ASI Sukhwinder Singh disclosed me regarding present case and then I also gave offer to the accused and made him aware about his legal right to get his search conducted before a Magistrate or any other gazetted officer. However, accused Sunny Kumar reposed confidence in me. On this, his consent statement memo Ex.P21 was recorded, which was signed by the accused and witnessed by ASI Sukhwinder Singh and ASI Karamjit Singh. Then, the police party led by me by taking along accused Sunny Kumar, reached at Ambala at the place disclosed by the accused. By leading the police party to the disclosed place, the accused got recovered a bag from a demolished house and presented the same before me. As per my direction, IO opened the recovered bag. From its search, 13 boxes containing Buprenorphine injections having 25 injections each in each box and 13 boxes containing Avil vials having 25 vials each in each box, were recovered. All the vials of Avil were having one batch number, date of manufacturing and date of expiry. Whereas, 8 boxes of Buprenorphine, were having one batch number, date of manufacturing and date of expiry and remaining 5 boxes were having

different batch number, date of manufacturing and date of expiry, which were duly noted down in the recovery memo. All the recovered injections and vials of Avil were again put into the same bag and converted into a parcel by putting the bag into a plastic bag(thela) and sealed with the seal of IO bearing impression 'SS' as well as with my seal bearing impression 'AK'. I kept my seal with me being Gazetted Officer whereas, the IO handed over his seal to ASI Karamjit Singh. The recovered contraband alongwith sample seal chit were taken into police possession, vide recovery memo Ex.P22, which was signed by accused Sunny and witnessed by ASI Karamjit Singh and Harpreet Singh s/o Avtar Singh, who was joined from the locality. The rough site plan of the place of recovery Ex.P23 was prepared with correct marginal notes. The statements of the witnesses were recorded. Thereafter, I left the place. IO recorded my statement. I have seen the case property today in the court i.e. sample parcels are MO3, MO4 and MO5. I identify the accused Sunny present in the court today.”

19. PW8 ASI Karamjit Singh (recovery witness) deposed being recovery witness and corroborated the memos prepared in his presence by the Second Investigating Officer.

20. Thereafter, learned APP for the State closed the evidence of the prosecution.

STATEMENT OF THE ACCUSED UNDER SECTION 313 CrPC AND THEIR PLEA AND EVIDENCE

21. Statements of accused under Section 313 Cr.P.C were recorded, in which all the incriminating evidence adduced and proved against the accused was put across to them. They denied all the allegations leveled against them and pleaded their innocence and false implication in this case.

They have further pleaded that no recovery was affected from them. They have no concern with the other accused persons.

22. In their defence, the accused examined the following witnesses.

DW1 Ranjit Singh deposed as under:-

“I am a summoned witness. I am an agriculturist and accused Amrinder Singh is my co-villager. On 01.07.2019, at about 4 PM, when I was standing outside my home and having some conversation with Ramdas, who is also my co-villager. Then at that time, a Government Scorpio open Jeep/Car passed in front of us. In above said Govt. Car, accused Amrinder Singh was caught by some police officials by sitting in the backside of said open Scorpio Car. I immediately along with Ramdas visited the house of Amrinder Singh and contacted with his family members, who told us that Amrinder Singh was illegally apprehended by the police officials. Lateron, I came to know from the family members that accused Amrinder Singh who is present today in the court was falsely implicated by the police station Mulepur in a false NDPS case, which is totally illegal even though Amrinder Singh is innocent. Justice may kindly be imparted to accused Amrinder Singh as he has no fault.”

23. Accused further examined **Ramdas Singh** as **DW2** co-villager of accused Amrinder Singh, who also deposed on the same lines of DW1 Ranjit Singh.

24. Thereafter, accused closed their defence evidence.

POINTS FOR DETERMINATION

25. I have heard learned APP for the State and learned defence counsel and have gone through the file carefully.

26. The following **points for determination** have arisen in this case:-

(A) Whether the prosecution has successfully established that on 01.07.2019 at about 9.10 PM, in the area of Bhakhra Canal bridge, Miyanpur, accused Princejeet Singh, Narinder Singh and Amrinder Singh were found in conscious possession of 24 injections of Buprenorphine 2/2 ML each, out of which, 9 injections were having batch number 19005 MFG 2/ 2019, Exp. 1/2021 and 5 injections Buprenorphine 2/2 ML were having batch number DA09 MFG 4/ 2019 Exp. 3/2021 and thereby, the accused Princejeet Singh, Narinder Singh and Amrinder Singh have committed the offence punishable under Section 22 of NDPS Act?

(B) Whether the prosecution has successfully established that on the same date, accused Sunny Kumar supplied 24 injections of Buprenorphine 2/2 ML each, out of which, 9 injections were having batch number 19005 MFG 2/ 2019, Exp. 1/2021 and 5 injections Buprenorphine 2/2 ML having batch number DA09 MFG 4/ 2019 Exp. 3/2021 to co-accused Princejeet Singh, Narinder Singh and Amrinder Singh and thereby, the accused Sunny Kumar has committed the offence punishable under Section 29 of NDPS Act?

(C) Whether the prosecution has successfully established that on 04.07.2019 at about 12.00 AM (midnight), in the area of Hira Nagar, H.No.105, PS Baldev Nagar, District Ambala, accused Sunny Kumar got recovered 13 sealed boxes of Buprenorphine injections having 25/25 injections in each box, out of which 8 boxes were having batch number RX 146, MFG

2019, Expiry 2021 and 5 boxes of Buprenorphine were having batch number DA029 MFG 2019 Expiry 2021, and thereby accused Sunny Kumar has committed the offence punishable under Section 22 of NDPS Act?

ARGUMENTS AND FINDINGS:-

27. Ld. Addl.Public Prosecutor for the State has vehemently argued that in this case, the prosecution has been duly able to prove its case. **ASI Sukhwinder Singh (Second Investigating Officer), ASI Naib Singh (First Investigating Officer/recovery witness of accused Princejeet Singh, Narinder Singh & Amrinder Singh) and PW8 ASI Karamjit Singh (recovery witness of accused Sunny Kumar)** of the case have deposed as **PW1, PW2 and PW8** respectively and have proved all the documents as well as deposed regarding the recovery affected from the accused persons. They have withstood rigors of their cross-examination and have proved the case of the prosecution. **PW3 Retd.Inspector Bhagwant Singh deposed being SHO**, at the relevant point of time, regarding producing the case property before him and affixing secret code by him. **PW4 C Kuldeep Singh** has proved safe deposit of the sample by him with the office of the FSL, Mohali. **PW5 HC Varinder Singh** deposed regarding affixing of unique code in the office of SSP Fatehgarh Sahib, on the parcel produced by C Kuldeep Singh. **PW6 HC Mandeep Sharma** deposed regarding depositing and taking out of the case property time and again for the purpose of progress of the investigation of this case. **PW7 DSP Ajay Kumar** deposed being Gazetted Officer of the present case. It is asserted that the entire chain of link evidence has been duly established. Therefore, it is prayed that the prosecution witnesses have duly proved the case of the prosecution and the accused are liable to be convicted in this

case, as the case of the prosecution stands proved beyond the shadow of reasonable doubt.

28. On the other hand, the arguments raised by the Ld. Defence Counsel are being discussed in fragments as under:-

Regarding accused Princejeet Singh, Narinder Singh and Amrinder Singh:

29. The first argument, which has been raised by the Ld. Defence Counsel is that the accused had been falsely implicated in the present case by picking them from their houses by the police party, which was carrying the contraband in their hands when they went to the house of the accused in civil dress. Reference has been made to the defence evidence of DW1 Ranjit Singh and DW2 Ram Dass Singh to buttress the arguments. Hence, it is prayed that this ground is sufficient to disprove the case of the prosecution.

30. Having regard to these submissions and the evidence on record, this Court is of the considered view that both DW1 Ranjit Singh and DW2 Ram Dass Singh have stated in their respective cross-examination that they have long standing social relations with the accused and his family members, due to which, their testimony being that of interested and related witnesses cannot be relied upon in a blindfolded manner. Moreover, no complaint before any authority was filed by the said witnesses regarding false implication and illegal detention of the accused, even though it is possible to do so even online through various complaint portals, which have been opened by the Government. Thus, the explanation offered by them that they did not raise the complaint under fear of the police does not inspire confidence, as alternate means are available to raise such a grievance of false implication. It is trite position of law that men may lie but documents do not. The uncorroborated oral defence evidence does not inspire the confidence of

the Court. Therefore, it is held that the defence of the accused does not create any dent in the version of the prosecution.

31. It has been further argued by the Ld.defence counsel with reference to the cross examination of **PW1 ASI Sukhwinder Singh, PW2 ASI Naib Singh, PW7 DSP Ajay Kumar** to assert that there are material contradictions in their statements regarding compliance with the provisions under Section 50 NDPS Act and regarding the manner in which the consent and dissent memos were prepared. On this aspect, he has relied upon case law titled as **2018 (2) Criminal Court Cases 001 (SC), 2020 (1) Cr.C.C. 758 (P&H) (DB), CRA-S-1896-SB-2013(O&M) Date of decision 20.08.2019 (Kulwinder Singh @ Kala vs State of Punjab), 2023 (4) Criminal Court Cases 544 (P&H), 2001 (1) RCR CRL 48 (Delhi), 2006 (2) Criminal Court Cases 67 (Delhi), 2020 (3) Recent Criminal Report 312 (P&H), Criminal Appeal No.11-SB of 2000, 2014 (2) Criminal Court Cases 077 (SC) (Divisional Bench), 2018 (Suppl.) Criminal Court Cases 001 (SC) (Full Bench), 2020 (3) Criminal Court Cases 68 (P&H), 2020 (1) Cr.C.C. 46 (P&H) & 2020 (1) Criminal Court Cases 562 (P&H), 2019 (3) Criminal Court Cases 346 (P&H) (DB), 2022 Live Law (SC) 267, 1999 (6) SCC 172 in State of Punjab vs Baldev Singh, 2010 (3) ACJ 619 in Vijaysinh Chandubha Jadeja vs State of Gujarat and 2020 (4) Recent Criminal Reporter (SC) (DB) 429-** in order to submit that when there is no proper compliance with the requirements of Section 50 NDPS Act, then, entire procedure is vitiated from the inception and no reliance can be placed upon the resultant recovery. It is submitted that since the procedure is vitiated from its inception, therefore, the prosecution has failed to lay the basis of the case and has failed to prove the foundational fact i.e. recovery of contraband

from the accused, due to which the presumption under Section 35 of the NDPS Act is not attracted in the present case.

32. Having regard to the above submissions, this Court is of the considered view that the above arguments are without any merit. In this case, the police party had apprehended one motorcycle bearing no. PB23-N-8792, which was occupied by accused Princejeet Singh, Narinder Singh and Amrinder Singh. A transparent polythene bag was tied on its handle. Thus, it is apparent that the recovery has been affected from the handle of the motorcycle. It has not been affected from any part of body of any of the above-mentioned accused. As per the law laid down in the case of **State of H.P. versus Pawan Kumar 2005 INSC 193**, it is categorically laid down that where any bag or envelope, etc., does not form part of the body of the accused, then, the rigors of Section 50 of NDPS Act do not apply to any such recovery, which is affected from such a bag. Since the provision under Section 50 NDPS Act does not apply to the recovery in the present case, therefore, any non-compliance or improper compliance with its provisions does not have any impact on the case of the prosecution. Resultantly, the discrepancies in the prosecution version in this regard are liable to be ignored.

33. Thereafter, it has been argued by the ld.defence counsel on the strength of judgment dated 31.07.2025 passed by the Hon'ble Punjab & Haryana High Court, in CRA- S- 2172- 2024 that in the said case, the accused was acquitted on the ground that it was impossible to accept the prosecution version that the accused was carrying contraband openly in a transparent polythene bag. Attention of the Court has been drawn towards the statements of all the prosecution witnesses to assert that it is the

prosecution version that the contraband was being carried in a transparent polythene bag by the accused. It is further submitted that the failure of the accused to conceal the contraband in a coloured bag, but carrying it in a transparent polythene bag shows that they were not in conscious possession of the contraband and the prosecution version is, therefore, liable to be disbelieved regarding recovery of contraband from the possession of the accused.

34. Having regard to these submissions, this Court is of the considered view that it is the case of the prosecution that the accused were carrying the contraband in a transparent polythene bag, which was tied by the accused on the handle of motorcycle bearing no.PB23-N-8792. The accused were detected by the police party at about 9.30 PM on 01.07.2019. It is pitch dark at that time of the night during the month of July. Therefore, it is reasonable to infer that the accused had intentionally moved about at a late hour of the night solely with the intention to avoid their detection by the police. Thus, it seems plausible that the accused had taken concrete steps to avoid their detection by the police and it also appears that they were taking the contraband in a transparent polythene bag due to their over confidence. Therefore, in the peculiar circumstances of this case, it is found that the act and conduct of the accused itself shows that they had taken overt steps to prevent detection of contraband in their possession, which shows that they were conscious about the nature of the material, which they were carrying in the polythene bag. These facts are, therefore, distinguishable from those mentioned in the cited law, in which the recovery of contraband from transparent polythene bag was not the only ground on which the acquittal of the accused was recorded, but there were other grounds, including

contradictions between the statements of the witnesses, which were relied upon to acquit the accused by the Hon'ble Punjab & Haryana High Court, in the cited law, whereas no such major contradictions are found to have occurred in the statements of the prosecution witnesses in the present case, as would be discussed below. Moreover, in the cited law the time of recovery is not mentioned, due to which there is an additional fact of distinction in the present case that the recovery has been effected at a late hour of the night under suspicious circumstances, which are sufficient to raise inference against the accused regarding their conscious possession over the contraband.

35. It has been further argued by ld.defence counsel with reference to cross-examination of Second IO Sukhwinder Singh and First IO Naib Singh that the site plan is defective as the details regarding the places where the police party and the accused were standing are not mentioned in the same.

36. In reference to the **site plan Ex.P8**, suffice it to observe that it is expected to show the place where the police party was standing generally and the place where the accused were apprehended by the police party. Each and every detail cannot be expected to be shown in the site plan, which is a rough site plan and by its very nature, its purpose is to indicate broadly the situation prevailing at the place of recovery. Each and every detail is not expected to be incorporated in the same, especially, when the version regarding scattered positioning of police party has come up for the first time in the cross-examination of the police officials and it is not a part of their examination-in-chief. Therefore, it is held that no dent is created in the prosecution version on this ground.

37. Thereafter, ld.defence counsel has referred to the oral evidence to submit that in the cross examination of the First and Second IO and recovery witness, the discrepancy has occurred regarding the sequence in which the various documents were prepared at the spot; the nature of the seal and its material and shape; the number of times the seal was used; who conducted the typing work, from where the electric connection was drawn. It is submitted that these are material discrepancies, which strike at the core of the prosecution version.

38. With regard to these submissions, this Court is of the considered view that in a lengthy investigation involving various steps in which a number of documents were created, then, the witnesses are likely to confuse the sequence of steps of investigation. It is also a common knowledge that the police officials are involved in a number of investigations on a daily basis. Thus, it is quite natural for them to confuse the facts. As such, the above noted discrepancies cannot be given any undue importance but these are liable to be ignored as minor discrepancies. On this aspect, reliance is placed upon case law titled as **Latif Mohammad versus State of Himachal Pradesh 2004 (3) RCR (Criminal) 870 (DB); Gangabhavani versus Rayapati Venkat Reddy (2013) 15 SCC 298; State of H.P. versus Krishan Chand 2016 (4) RCR (Criminal) 293 (DB); and Swaroop Chand versus State of H.P. 2024 NCHHC 6332 (DB).**

39. It is further argued that another discrepancy has occurred in the prosecution version that HC Mandeep Sharma in his affidavit has stated that the inventory proceedings were conducted by Inspector Bhagwan Singh, whereas as per prosecution story, it is ASI Sukhwinder Singh who is supposed to have got conducted the inventory proceedings from the Court. It

is contended that even the application filed by the prosecution u/S 311 CRPC for recalling HC Mandeep Sharma to clarify this aspect has been already dismissed by this Court. Therefore, it is contended that this is a material contradiction which strikes at the roots of the case of the prosecution.

40. Having regard to the above submissions, this Court is of the considered view that ASI Sukhwinder Singh Second IO deposed as PW1 and has categorically stated that he had produced the case property before the Ld. Magistrate on 02.07.2019 and the proceedings under Section 52-A NDPS Act were conducted in his presence. He has also proved all the documents which were prepared at that time. Hence, he has proved the entire chain of the evidence and has clarified all the doubts in the version of the prosecution on that aspect and therefore, it is held that no discrepancy has arisen in the prosecution version on that ground.

41. It has been further argued by ld.defence counsel that second IO Sukhwinder Singh has stated in the cross-examination that after sending ruqa carrier to the police station and before his return at the spot, he had prepared recovery memo, arrest memo, personal search memo, site plan, seizure memo of bike, sample seal chit. It is contended that on all these documents, FIR number is printed, which it is asserted shows that documents have been manipulated by antedating and it shows that accused has been falsely implicated in this case. On this aspect, ld. counsel for accused has relied upon case law titled as **2010 (3) CCC 382 (P&H), 2017 (4) CCC 727 (P&H)**.

42. Having regard to these submissions, this Court is of the considered view that it is the routine police practice that the documents are kept on preparing by leaving the space blank for filling the FIR number in the

same at the later stage, after return of the ruqa carrier from the Police Station with the FIR number. Therefore, this aspect cannot be taken as sufficient to infer that the police proceedings have been manipulated or fabricated. The documents, which were prepared after return of the ruqa carrier from the police station, were definitely bound to contain the FIR number and thus, no discrepancy is to be found in the prosecution version on the above ground as well. With the advancement of technology, it is possible for the IO to obtain information on phone from the police station regarding the FIR number. Thus, there is no improbability in the version of the prosecution regarding the said aspect.

43. It has been further argued by Id.defence counsel that the recovery memo is not bearing the signatures of accused, whereas, IO has stated in the cross-examination that signatures of the accused persons were taken on recovery memo before it was attested by IO and recovery witness. Thus, it is submitted that a material contradiction has arisen in the case of the prosecution on the above aspect. He has relied upon case law titled as **Sandeep Singh versus State 2020 (1) CR.CC 46 and Atma Singh vs State 2023 (4) Law Herald 2713**, to assert that absence of the signature of accused on recovery memo leaves scope for its interpolation and hence, it has no value against the accused and cannot be taken into consideration.

44. With regard to the above submissions, this Court is of the considered view that the recovery memo of the contraband is one such document which proves presence of the contraband. In case, the signatures of accused are obtained on the same, then, it shall raise the inference that accused have admitted both the facts of presence of contraband as well as its recovery from them. In case, the accused sign upon recovery memo, then, it

shall tantamount to an admission on their part regarding the factum of recovery, which shall operate against the cardinal principle of protection from self-incrimination afforded to the accused. In the light of these circumstances, this Court is of the considered view that no adverse inference is liable to be drawn against the prosecution for failure to obtain signatures of the accused upon the recovery memo; rather, the prosecution has acted in proper manner by omitting to do so and has properly preserved the right of the accused against self-incrimination. It is provided in Section 51 NDPS Act that the general provisions of search, as provided under CrPC (now BNSS) shall apply to all searches conducted under NDPS Act, in so far as they are not inconsistent with each other. There is no specific provision under NDPS Act in which it may be provided that the recovery memo should be signed by the accused. On the other hand, under Sections 100 & 102 CrPC (Sections 97 & 99 BNSS, 2023), it is not provided that the search/recovery memo should be signed by the accused. Moreover, it is laid down in case law titled as **Narsiah, re, 1959 CriLJ 689: AIR 1959 AP 313** that *it is considered highly objectionable to make the accused sign or put his signatures/thumb-impression on the search list*. Therefore, in the light of the said ruling, it is held that the present case of the prosecution does not suffer from any infirmity.

45. It is lastly contended that the SHO has stated in the cross-examination that he took the seal from the IO for comparing it with the sample seal chit and then after his satisfaction, he deposited the case property with the MHC. Hence, it is prayed that there is possibility of tampering the case property as the seal was in possession of the IO when he appeared before the SHO.

46. With regard to these submissions, this Court is of the considered view that firstly inventory of the case property has been prepared before the Ld.Magistrate, who had conducted the proceedings u/S 52-A NDPS Act and proceeded under the law after his satisfaction regarding presence of the seal on the contraband. Secondly, the above line of statement suffered by the SHO in the cross-examination has not been put to the witnesses i.e. IO and recovery witnesses in their cross-examination who have consistently stated that seal of the IO was in possession of the recovery witness. Thus, the statement made by the SHO has to be read into conjunction with the fact that recovery witness was part of the police team when the case property was produced before the SHO. Hence, it is held that no material contradiction is found to have arisen in the case of the prosecution.

Role of accused Sunny Kumar :

47. It has been argued by ld.defence counsel that there is no relationship between main accused Princejeet Singh, Narinder Singh and Amrinder Singh and accused Sunny Kumar; no call details regarding their conversation have been proved; no money transaction between them has been proved; there is no document to prove their link with each other; accused Sunny Kumar has been nominated because of disclosure statement of accused Amrinder Singh and thereafter, his own disclosure statement of accused Sunny Kumar, which is a weak kind of evidence as per law titled as **Tofan Singh vs State 2013 (4) RCR Criminal 631 SC**. Therefore, it is submitted that the evidence against Sunny Kumar is a weak kind of evidence and it cannot be taken into consideration.

48. Having regard to the said submissions, this Court is of the considered view that in the present case, acting upon disclosure statement of

accused Sunny Kumar, recovery of contraband has been affected from a deserted, uninhabited and demolished house located at Ambala. Thus, the disclosure statement suffered by accused Sunny Kumar has led to recovery of incriminating fact, due to which, it has become admissible in evidence and is liable to be taken into consideration. Therefore, absence of documentary evidence regarding link of the accused with each other has no significance as the affirmative fact i.e. incriminating material i.e. contraband has been recovered from possession of accused Sunny Kumar, which makes the present case fall within exception to the general principle laid down in law titled as *Tofan Singh (supra)*.

49. It is further contended by Id.defence counsel that while effecting the recovery from Ambala, no information was given to the concerned police station at Ambala; the Gazetted Officer from Ambala was not called at the spot; no transit remand of accused Sunny Kumar was obtained from the competent court at Ambala. It is asserted that there is a contradiction in the statement of the IO who has stated that intimation was given at PS Baldev Nagar, whereas the DSP has stated that PHG Naib Singh was joined from Ambala and his signatures were obtained on the recovery memo, but when confronted with recovery memo, he admitted that his signatures were not present on the same. The IO has stated that the statement u/S 27 Evidence Act was recorded in the presence of DSP, who attested the same, but when confronted he admitted that the signatures of DSP were not present upon the said memo. The IO did not clarify ownership record of the house from where the recovery was affected and thus, the link of accused Sunny Kumar with the said house has not been established. There is a contradiction between the statements of the IO and the recovery witness regarding the source of

electricity as the recovery witness has stated that the electricity was drawn from an adjoining property which is impossible as it was uninhabited place; there is contradiction between the statements of witnesses as to who used the seal of DSP; the recovery memo does not bear the signatures of accused. The DSP has stated that there was no alteration in the recovery memo but when confronted with the same, he admitted that the recovery memo is bearing the address of the accused which is written in hand, which shows that it has been altered later on. On account of these factors, it has been submitted that grave doubts have arisen in the case of the prosecution, which is liable to be disbelieved.

50. Having taken into consideration the above submissions, this Court is of the considered view that in so far as not obtaining permission of higher police authorities is concerned, the DSP was accompanying the police party. He is a Gazetted Officer. Thus, intimation has been duly furnished to the competent officer and thus, compliance with the rules has been duly made. In so far as the contradiction regarding joining police official from Ambala is concerned, suffice it to say that due to passage of long time, human memory is liable to erode and it is likely to result in minor contradictions mentioned above. Moreover, it is laid down in law titled as ***Karnail Singh versus State of Haryana 2010 (1) CCC 444 SC*** that even if there is some material irregularity in conducting such procedure, still it is not sufficient by itself to erode the fact that the contraband has been recovered from the possession of accused. Thus, the above factors do not create any dent in the prosecution version.

51. In so far as not seeking the transit remand of the accused from the Court at Ambala is concerned, this Court is of the considered view that as

per Section 57 of CrPC read with Section 167 CrPC (now 187 BNSS), transit remand of the accused is required to be obtained, only if he is not likely to be produced before the Jurisdictional Magistrate within a period of 24 hours. In the present case, the distance between Ambala and Fatehgarh Sahib is about 60 Kms, which takes about 1 hour to travel, due to which, it is held that no illegality has been committed by the IO by not obtaining transit remand of the accused, as there always existed the reasonable probability of production of the accused before the Jurisdictional Magistrate at Fatehgarh Sahib within 24 hours of his arrest. Hence, no dent is created in the version of the prosecution.

52. In so far as contradictions regarding signature of DSP on the statement u/S 27 Evidence Act, as to who used the seal as well as source of the electric connection are concerned, this Court is of the considered view that these are the minor contradictions, which can be attributed to long lapse of time i.e. of about three years between the recovery and recording of evidence in the court as well as involvement of the police officials in multiple cases at the same time. It is a minor contradiction, which is not so grave as to totally make the prosecution version as improbable. On this aspect, reliance is placed upon case law titled as **State of Andhra Pradesh Vs Kanda Gopaludu reported in 2005 (4) RCR Criminal 686**, in which it is held that:-

“Every discrepancy in the statement of witnesses cannot be treated as fatal to the prosecution case and that human memories are apt to blur with passage of time.”

Further, Hon’ble Apex Court in **Bhola Singh @ Paras Ram vs State of H.P. 2009 (9) RCR 166** has been pleased to observe as follows:-

“It is to be noted that accused person pleaded that evidence of the eyewitness cannot be accepted as their were omissions, contradictions and discrepancies in the evidence of the most of the prosecution witnesses. It is clearly settled proposition of law that even if there are some omissions, contradictions and discrepancies, the entire evidence cannot be discarded. The court can come to conclusion as to whether evidence is sufficient to convict the accused.”

53. With regard to the submission regarding absence of signatures of the accused Sunny Kumar on the recovery memo, at the cost of repetition, this Court is of the considered view that the recovery memo of the contraband is one such document which proves presence of the contraband. In case, the signatures of accused are obtained on the same, then, it shall raise the inference that accused have admitted both the facts of presence of contraband as well as its recovery from them. In case, the accused sign upon recovery memo, then, it shall tantamount to an admission on their part regarding the factum of recovery, which shall operate against the cardinal principle of protection from self-incrimination afforded to the accused. In the light of these circumstances, this Court is of the considered view that no adverse inference is liable to be drawn against the prosecution for failure to obtain signatures of the accused upon the recovery memo; rather, the prosecution has acted in proper manner by omitting to do so and has properly preserved the right of the accused against self-incrimination. It is provided in Section 51 NDPS Act that the general provisions of search, as provided under CrPC (now BNSS) shall apply to all searches conducted under NDPS Act, in so far as they are not inconsistent with each other. There is no specific provision under NDPS Act in which it may be provided that the recovery

memo should be signed by the accused. On the other hand, under Sections 100 & 102 CrPC (Sections 97 & 99 BNSS, 2023), it is not provided that the search/recovery memo should be signed by the accused. Moreover, it is laid down in case law titled as **Narsiah, re, 1959 CriLJ 689: AIR 1959 AP 313** that *it is considered highly objectionable to make the accused sign or put his signatures/thumb-impression on the search list*. Therefore, in the light of the said ruling, it is held that the present case of the prosecution does not suffer from any infirmity.

54. In so far as mentioning of address of accused with pen on the recovery memo is concerned, this Court is of the considered view that it is only an incidental matter regarding description of residence of accused, but it does not touch a material fact regarding the recovery of contraband or any other such material particulars of the case. Hence, it cannot be treated as a material alteration. Therefore, it is not sufficient to create any dent in the prosecution version.

55. In so far as not verifying ownership of the house by the IO is concerned, this Court is of the considered view that once the recovery has been effected from the place which was disclosed by the accused, then it is sufficient to prove the sufficient knowledge of place, as well as fact regarding concealment of contraband therein. The house from where the recovery has been effected is a desolated and un-inhabited house located away from the main road. It was within exclusive knowledge of the accused. All these facts are sufficient to give rise to the inference regarding exclusive knowledge of the accused and also to establish that he has a connection with the place of recovery. Therefore, failure to verify ownership details of the place of recovery does not create any dent in the version of the prosecution.

56. It has been further argued by ld.defence counsel that neither the report u/S 42 NDPS Act nor the report u/S 41 (2) NDPS Act were issued, despite availability of prior information with the IO that the accused knew about concealment of the contraband and likelihood of recovery of contraband. It is, therefore, submitted that a material procedural lapse has been committed in not following the above procedural requirements.

57. Having regard to these submissions, this Court is of the considered view that in the present case, the FIR had been already registered regarding recovery of contraband from accused namely Princejeet Singh, Narinder Singh and Amrinder Singh. It is lateron after recording disclosure statement of Amrinder Singh and then of accused Sunny that the recovery from accused Sunny was affected. Thus, it reflects that the FIR was already in existence. The investigation was already underway. The reports u/S 42 as well as 41 (2) NDPS Act are to be sent before initiation of the investigation, but not during the course of an already pending investigation. Hence, no discrepancy in the prosecution version is found to have arisen on the above ground.

58. It has been further argued by the Ld.defence counsel with reference to the cross examination of **PW1 ASI Sukhwinder Singh and PW7 DSP Ajay Kumar** to assert that there are material contradictions in their statements regarding compliance with the provisions under Section 50 NDPS Act and regarding the manner in which the consent and dissent memos were prepared. On this aspect, he has relied upon case law titled as **2018 (2) Criminal Court Cases 001 (SC), 2020 (1) Cr.C.C. 758 (P&H) (DB), CRA-S-1896-SB-2013(O&M) Date of decision 20.08.2019 (Kulwinder Singh @ Kala vs State of Punjab), 2023 (4) Criminal Court Cases 544 (P&H), 2001**

(1) RCR CRL 48 (Delhi), 2006 (2) Criminal Court Cases 67 (Delhi), 2020 (3) Recent Criminal Report 312 (P&H), Criminal Appeal No.11-SB of 2000, 2014 (2) Criminal Court Cases 077 (SC) (Divisional Bench), 2018 (Suppl.) Criminal Court Cases 001 (SC) (Full Bench), 2020 (3) Criminal Court Cases 68 (P&H), 2020 (1) Cr.C.C. 46 (P&H) & 2020 (1) Criminal Court Cases 562 (P&H), 2019 (3) Criminal Court Cases 346 (P&H) (DB), 2022 Live Law (SC) 267, 1999 (6) SCC 172 in State of Punjab vs Baldev Singh, 2010 (3) ACJ 619 in Vijaysinh Chandubha Jadeja vs State of Gujarat and 2020 (4) Recent Criminal Reporter (SC) (DB) 429- in order to submit that when there is no proper compliance with the requirements of Section 50 NDPS Act, then, entire procedure is vitiated from the inception and no reliance can be placed upon the resultant recovery. It is submitted that since the procedure is vitiated from its inception, therefore, the prosecution has failed to lay the basis of the case and has failed to prove the foundational fact i.e. recovery of contraband from the accused, due to which the presumption under Section 35 of the NDPS Act is not attracted in the present case.

59. Having regard to the above submissions, this Court is of the considered view that the above arguments are without any merit. In this case, on the disclosure statement of accused Sunny Kumar Ex.P19, the police party went to the disclosed place and recovered a bag from an uninhabited and demolished house from which the contraband was recovered, as per disclosure made by the accused Sunny Kumar. Thus, it is apparent that the recovery has been affected from the bag recovered from a deserted house on the demarcation of accused. It has not been affected from any part of body of any of accused Sunny Kumar. As per the law laid down in the case of **State of H.P. versus Pawan Kumar 2005 INSC 193**, it is categorically laid down that

where any bag or envelope, etc., does not form part of the body of the accused, then, the rigors of Section 50 of NDPS Act do not apply to any such recovery, which is affected from such a bag. Since the provision under Section 50 NDPS Act does not apply to the recovery in the present case, therefore, any non-compliance or improper compliance with its provision does not have any impact on the case of the prosecution. Resultantly, the discrepancies in the prosecution version in this regard are liable to be ignored.

60. It has been further argued by ld.defence counsel that from the statement of SHO, it is revealed that when the case property was produced before him, the seal of IO was in possession of IO, which hints that the seal was never handed over to recovery witness, which it is asserted to give rise to the possibility that the IO might have manipulated the case property as sanctity of the same is not proved. By relying upon case law cited as **2005(2) Criminal Court Cases 29 (P&H)**, it is asserted that till date the case property is sent to FSL, seal should not be available to IO and if the said safeguard is not followed, then the possibility of tampering with the recovery cannot be ruled out.

61. Having regard to these submissions, this Court is of the considered view that in the present case, the case property was produced after recovery before the Ld.Magistrate, Fatehgarh Sahib, who passed the **order u/S 52 NDPS Act Ex.P27**. From the said order, it is revealed that the entire property was produced before the Ld.JMIC Fatehgarh Sahib, in intact proceedings, who observed that the property was consisting of 325 injections of Buprenorphine of 2 ML each and 325 vials of Avil of 10 ML. Thereafter, two representative samples of 2 injections of Buprenorphine

bearing batch number RX-146 each & 2 injections of Buprenorphine 2 ML batch no.DA029 each and 2 representative samples of 2 vials of Avil 10 ML each were created from the bulk parcel. The samples so drawn and remainder bulk property were sealed with the seal of Ld.JMIC Fatehgarh Sahib, bearing impression 'BM'. This is also reflected in **form 29 Ex.P30** and it is also reflected in the **report of FSL Ex.P31**, in which, the said quantity of the contraband was found in the said parcel with intact seals as mentioned above. Thus, the sanctity of case property is duly established to have been properly preserved. The proper preservation of the bulk and samples is duly proved from the above line of evidence. Thus, it rules out the possibility of tampering with the contraband, especially when the inventory proceedings were conducted in the Court before the Ld. Magistrate, who did not find any discrepancy with the parcels of contraband, which were produced before him.

Common arguments raised by Ld. Defence Counsel regarding both the set of recoveries affected from all the accused:-

62. It has been further argued by ld.defence counsel that the IO has not tendered in the evidence the log book pertaining to his vehicle as well as the one pertaining to the vehicle of the DSP with the submissions that material line of evidence has been intentionally withheld with the prayer that prosecution version is liable to be discarded only on this ground.

63. With regard to the said submission of ld.defence counsel, this Court is of the considered view that in case laws titled as **Jai Yodha vs State (Delhi) Law Finder doc # ID 453028** and **Om Parkash vs State (Delhi) Law Finder doc # ID 592117**, it has been laid down that non-production of the log books, by itself, does not raise any inference against the police party regarding its non-presence at the place of recovery. It is the holistic view of

the matter, which is required to be taken. In the light of the discussion of the evidence on record, this Court is of the considered view that the case of the prosecution stands duly proved and does not suffer from any grave discrepancies, due to which, it is required to be believed and as such, non-production of the log books does not create any dent in the version of the prosecution.

64. It has been argued by the Ld.defence counsel that there is a missing link in the chain of evidence to the effect that PW6 MHC Mandeep Sharma and PW4 Ct.Kuldeep Singh have stated in the cross-examination that after resealing the sample parcel and affixing the secret code, the sample was handed over to them by the SHO. Secondly, the contradiction has arisen that the sample carrier has stated that he deposited the case property in the Chemical Laboratory, which makes the report of FSL doubtful. By relying upon case law titled as **Vijay Pandey vs State of U.P. reported in 2019 (3) Criminal Court Cases 761 (SC)(DB), 2008 (3) Criminal Court Cases 655 (P&H), 2021(3) PLR 459 (P&H) and 2024 (2) RCR (Criminal) 102 (SC)**, it has been argued that the chain in the link evidence has been broken as it is proved that the sample had been tampered with by SHO before sending the same to the FSL.

65. With regard to the above submission, this Court is of the considered view that in his affidavit Ex.PW6/A, the MHC Mandeep Sharma has categorically mentioned that when he had taken out the sample from the malkhana, it was bearing the seal of the Id.Ilaqa Magistrate. He then produced the sample before SHO, who put it in another parcel, which was sealed with seal. The sample was further sealed by the DSP while affixing the unique code. In the **report of FSL Ex.P31**, three intact seals have been

observed i.e. of the Magistrate, the SHO and the DSP, which proves the sequence of affixing the seals. Thus, the sequence of preservation of the sample has been duly proved. It is the said evidence which has been clarified by the MHC in the cross examination that the sample was sealed by SHO before sending it to the FSL. Thus, this court is of the considered view that there is no tampering with the sample. Hence, the ratio of the cited law is distinguishable from the facts of the case.

66. Regarding the statement of the sample carrier in the cross-examination, in which reference to Chemical Laboratory has been made, this Court is of the considered view that the **report Ex.P31** has been prepared by the FSL. There is no report of the Chemical Lab. There is no ambiguity regarding this aspect. It is the settled position of law that men may lie but documents do not. Thus, the oral statement of the sample carrier in his cross-examination does not carry any probative value in the light of the documentary evidence, which is present on the record. In case there was any report from the Chemical Laboratory, then, the confusion might have arisen from the cross-examination of the sample carrier as to where he had deposited the sample. However, when there is no such ambiguity, then, it is found that no dent is created in the prosecution version and it is required to be believed.

67. Further, Ld.defence counsel has relied upon case law titled as **2024 NCPHHC 131227 (P&H) (DB) titled as Darshan Singh vs State of Punjab, 2024 NCPHHC 59651 (P&H) (DB) titled as Kuldeep Singh @ Keepa vs State of Punjab**, to assert that in the said case, the accused was acquitted on the ground that the residual left after testing of the contraband in the FSL was not produced; the witness was not examined from the FSL to

prove its report, due to which the presumption under Section 293 CrPC was not attracted, as the accused was not given the opportunity to cross examine the witness and rebut the contents of the report. It is submitted that even in the present case, the said compliance has not been made, due to which the report of FSL cannot be read in the evidence.

68. Having regard to the said submissions, this Court is in due and respectful agreement with the ratio of the cited law. However, there is a point of distinction that the said case law is based upon new rules under the NDPS Act, which were enforced in December 2022 i.e. NDPS Rules, 2022. In the said rules, it is provided in Rule 15 that the FSL shall return the residual to the SHO who shall get the same disposed off through the Drug Disposal Committee. However, there was no such rule prior to enforcement of the Rules, which were notified on 23.12.2022. The present recoveries were affected in the month of July 2019. The procedure to be followed in the present case was as per the previous rules i.e. NDPS Rules 1985, as amended upto 2015. Hence, the ratio of cited law is not applicable to the facts of the present case, as the procedure which has been followed in the present case was under the unamended/original rules. Moreover, entire chain of evidence is complete in the present case. The recovered property was duly produced before the Ld. Illaqa Magistrate. The **orders under Section 52A NDPS Act are Ex.P14 and Ex.P27**. In the same all the particulars of the case property have been duly mentioned. The case property was duly deposited in the Malkhana. The sample was produced before the SHO who put it in another parcel and sealed the same before sending it to the FSL. The sample was also produced before the office of SSP and the docket was duly got issued. The **Forms No. 29 are Ex.P16 and Ex.P30**. These contain full

disclosure of all the material particulars of the samples. The **FSL report is Ex.P31**. This contains the material particulars of the sample as well as the nature of the salt. No such discrepancy has been pointed out by the defence from a perusal of the above documents, which could create an impression in the mind of the Court that the requirements of the law had not been followed. Thus, the ratio of the cited law is found to be distinguishable of the facts of the present case in the light of the discussion made above.

69. It is further submitted by the Ld. Defence counsel that forward and backward links have not been established as the source of the contraband as well as its intended destination has not been traced by the investigating agency during the investigation of the present case and that the genuineness of the batch and lot was not verified from the manufacturer of the recovered contraband. Thus, it is submitted that it shows that the case property has been planted upon the accused.

70. So far as establishment of forward and backward linkages is concerned, this Court is of the considered view that though it would have been prudent for the IO to conduct proper technical investigation to trace the source of recovered contraband and also to establish the intended destination, as it would have led to better quality of investigation and might have also exposed the role of other persons involved in the entire chain of event, yet, the said lapse does not wash away the fact that the contraband has been recovered from the possession of accused. Hence, the mere lapse on the part of IO does not make the prosecution version improbable, when it is otherwise of a credible nature.

71. Further, the ld.defence counsel has referred to statement of PW6 MHC Mandeep Sharma and PW4 Ct.Kuldeep Singh to assert that they have

stated in the cross examination that Ex.PW4/A and Ex.PW6/A i.e. their affidavits are their only statements and no other statement was recorded. It is submitted that it shows that their statements under Section 161 CrPC are not proved. Reliance has been placed upon case law titled as **1997 (4) Recent Criminal Reports 172 (P&H) (DB) titled as Padam Singh vs State of Punjab**, which has been followed in case law titled as **2008 (4) Criminal Court Cases 489 (P&H) titled as Hakam Singh vs State of Punjab**, to assert that where the statement of the witnesses u/s 161 CrPC have not been proved, then, their evidence cannot be taken into consideration. It is submitted that in view of the above discrepancy, a material link in the chain of circumstantial evidence has not been proved by the prosecution.

72. Having regard to the above submissions, this Court is of the considered view that the facts of the case law titled as **Padam Singh (supra)** reveal that in the said case, the affidavits of the MHC and sample carrier were not tendered in the evidence and these were not confronted to the accused in his statement under Section 313 CrPC. On account of the said facts, it was held in the case law titled as **Padam Singh (supra)** that the link evidence had not been proved. To the contrary, in the present case, the affidavits of sample carrier and MHC have been duly tendered as Ex.PW4/A and Ex.PW6/A. When they have tendered the affidavits, which are to be taken into consideration as per Section 296 CrPC, then, their statements u/S 161 CrPC lose the significance. The purpose of the statement u/s 161 CrPC is to give a chance to the accused to contradict the witnesses with their previous statements recorded during the investigation. The said purpose can be achieved even by contradicting witnesses with the affidavit, which is part of their examination in chief. In-fact, the object of making the provision

under Section 296 CrPC is to operate in conjunction with the provision under Section 161 CrPC. Both these provisions are to operate simultaneously in conjunction with each other. Thus, it is found that no material discrepancy has occurred in the prosecution version on the above ground. It is also found that ratio of the cited law is distinguishable from the facts of the present case. Similarly, the facts of the case law titled as **Hakam Singh (supra)** are distinguishable from those of the present case, as discussed above.

73. It has been further argued even though the prosecution had supposedly joined independent witnesses at the time of effecting the recovery, yet, they have not been examined, due to which it is contended that a serious defect has arisen in the version of the prosecution, due to which it is liable to be discarded, whereas the accused are liable to be acquitted by giving them the benefit of doubt.

74. Having regard to the above submission, this Court is of the considered view that in so far as non-examination of independent witness is concerned, it is to be appreciated that mere non-examination of independent witness is, by itself, no ground to demolish the case of the prosecution. The official prosecution witnesses are entitled to be given as much weight as any ordinary witness. Merely because the official witnesses are interested in securing the conviction of the accused is not a sufficient ground to discard the value of their testimonies. In view of the discussion of the evidence made above, this Court is of the considered view that there is no such lacuna in the case of the prosecution, which could have been explained in the examination of the independent witnesses. Moreover, no evidence has been adduced by the defence to show any incidence of an element of hostility with the

investigating agency to falsely implicate the accused. On the other hand, even though the names of the independent witnesses have been duly mentioned in the final police report and even though the independent witnesses were not examined by the prosecution, yet, the defence made no effort to examine the said witnesses on behalf of the accused. In case the accused had examined the said independent witnesses, then, to a certain extent, a dent might have been created in the prosecution version. However, no adverse inference against the prosecution can be drawn only on account of the fact that the independent witnesses cited by the prosecution have not been examined. Hence, in light of these circumstances, this Court is of the considered view that non-examination of the independent witnesses is not fatal to the case of the prosecution. On this aspect, reliance is placed on the law titled as “**Shiv Lal vs. State of Haryana, (P&H): Law Finder Doc Id # 117914: 2006(2) R.C.R. (Criminal) 224**” and **Swaroop Chand versus State of H.P. 2024 NCHHC 6332 (DB)**.

CONCLUSION:

75. In the light of above circumstances, this Court is of the considered view that the prosecution has successfully proved the case against the accused **Princejeet Singh, Narinder Singh, Amrinder Singh and Sunny Kumar** on the test of proof beyond the reasonable doubt. The prosecution has successfully proved that the **accused Princejeet Singh, Narinder Singh, Amrinder Singh** were found in conscious possession of **24 injections of Buprenorphine 2/2 ML each, out of which, 9 injections were having batch number 19005 MFG 2/ 2019, Exp. 1/2021 and 5 injections Bipronine 2/2 ML having batch number DA09 MFG 4/ 2019 Exp.3/2021 and accused Sunny Kumar** was found in conscious possession of **8 boxes of**

Buprenorphine injections having batch number RX-146, MFG 2019, Expiry 2021 and 5 boxes of Buprenorphine having batch number DA029 MFG 2019 Expiry 2021. As per the report of FSL Ex.P31, the analyzed sample of all the contraband was found to contain Buprenorphine Hydrochloride, which is a prohibited substance as per Schedule to the NDPS Act. The recovered quantity of contraband from the respective set of accused quantifies as commercial quantity for Buprenorphine. It also stands proved that accused Sunny Kumar had supplied the contraband to the accused Princejeet Singh, Narinder Singh, Amrinder Singh.

76. In so far as recovery of Avil is concerned, it has yielded pheniramine maleate, which is not a prohibited substance under the NDPS Act and it does not give rise to any offence under the NDPS Act. Hence, **all points for determination are determined in favour of the prosecution and against the accused.**

77. As a result of the discussion made above, it is held that the prosecution has succeeded in proving its case against the **accused Princejeet Singh, Narinder Singh, Amrinder Singh and Sunny Kumar** on the test of proof beyond the reasonable doubt. The prosecution has successfully proved that the accused Princejeet Singh, Narinder Singh and Amrinder Singh were found in **possession of 24 injections of Buprenorphine 2/2 ML each, out of which, 9 injections having batch number 19005 MFG 2/ 2019, Exp. 1/2021 and 5 injections Buprenorphine 2/2 ML having batch number DA09 MFG 4/ 2019 Exp. 3/2021 and accused Sunny Kumar was found in conscious possession of 13 sealed boxes of Buprenorphine injections having 25/25 injections in each box, out of which 8 boxes were having batch number RX 146, MFG 2019, Expiry 2021 and 5 boxes of Buprenorphine having batch**

number DA029 MFG 2019 Expiry 2021. As per the report of FSL Ex.P31, the analyzed sample of the same was found to contain Buprenorphine Hydrochloride, which is a prohibited substance as per Schedule to the NDPS Act. Thus, the recovered contraband from accused **Princejeet Singh, Narinder Singh, Amrinder Singh** quantifies as commercial quantity for **Buprenorphine**. Separately, the recovered contraband from accused **Sunny Kumar** also quantifies as commercial quantity for **Buprenorphine**. It is also held that the prosecution has proved the charge against the accused **Sunny Kumar** under Section 29 NDPS Act. Thus, the **accused Princejeet Singh, Narinder Singh, Amrinder Singh and Sunny Kumar** are found to have committed the offences under Section 22-C read with Section 29 of the NDPS Act. They are, therefore, **convicted** for commission of offence **under Section 22-C and Section 29 of the NDPS Act**. Let, the convicts be taken into custody and be heard on the quantum of sentence.

Pronounced:

Dated: 03.07.2026

**(Jagbir Singh Mehndiratta),
Judge, Special Court
Fatehgarh Sahib
UID No. PB00296**

*Manjinder Singh
(Judgment Writer-II)*

QUANTUM OF SENTENCE

Present : Ms.Anju Narula, Ld.Addl.Public Prosecutor for the State.
Convicts Princejeet Singh, Narinder Singh, Amrinder Singh and Sunny Kumar in custody represented by Sh.Amandeep Bawa Advocate.

78. I have heard the convicts and the Ld.counsel on the quantum of sentence. The **convict Princejeet Singh** stated as below:-

“I am aged about 27 years. I am unmarried. I am matriculate. Earlier I used to work as a casual labourer. I had suffered an accident about 4 years ago in which my hip bone broken and I am undergoing surgical procedure for the said issue. I have no criminal antecedents. I am the sole person to look after my parents who are of old age. My father is bed ridden for the last 15 years. There is no one else to look after my father in the family. I was falsely implicated in the present case by picking me up from my house. Therefore, it is prayed that lenient view may be taken while awarding the sentence.”

79. The **convict Narinder Singh** stated as below:-

“I am aged about 32 years. I am unmarried. I am 10+2 pass. I am a dairy farmer. My parents are living with me. My brother and sister living separately. I was falsely implicated in the present case by picking me up from my house by concoction of the story. Therefore, it is prayed that lenient view may be taken while awarding the sentence.”

80. The **convict Amrinder Singh** stated as below:-

“I am aged about 33 years. I am married. I have young daughter aged about 1 ½ years. I am a graduate. I am an agriculturist. My father has already died. My mother is living with me. I am the sole breadwinner of the family. I have no criminal antecedents. I was falsely implicated in the present case by picking me up from my house by concoction of the story. Therefore, it is prayed that lenient view may be taken while awarding the sentence.”

81. The **convict Sunny Kumar** stated as below:-

“I am aged about 27 years. I am unmarried. I am matriculate. I am working as a clerk at a shop of sale of construction material. My father has already died. My mother is living with me alongwith my brother and his

wife. I was falsely implicated in the present case by picking me up from my house by concoction of the story. Therefore, it is prayed that lenient view may be taken while awarding the sentence.”

82. On the other hand Ld. Addl.PP for the State has opposed the plea of convicts by stating that heavy recovery of contraband was effected from the convicts, for which, they deserve to be sentenced with maximum sentence as provided under the law. She also tendered into evidence **sentence slip of the convicts Princejeet Singh, Narinder Singh, Amrinder Singh and Sunny Kumar Ex.CA to Ex.CD respectively** on the aspect of quantum of sentence.

83. After considering the above submissions of the convicts and those of Ld. Additional Public Prosecutor for the State, this Court is of the view that no leniency is made out in favour of the convicts and this is a fit case where convicts are required to be sentenced adequately as per law. Moreover, the recovery effected from all the convicts quantifies as commercial quantity for which minimum sentence and fine is prescribed. Further, in so far as convict Sunny is concerned, he not only supplied the contraband to the remaining convicts but he was separately found in possession of commercial quantity of contraband which is much more the quantity as compared with the remaining convicts. Therefore, the convict Sunny is required to be sentenced to a higher degree of substantive sentence, as compared with the remaining accused. Thus, the convicts are hereby sentenced as under:-

Sr. No.	Name of convicts	Under Section	Sentence and fine
1.	Princejeet Singh	22 read with 29 of Narcotic Drugs and Psychotropic Substances Act	Rigorous Imprisonment for 10 Years and fine Rs.1,00,000/-. In default of payment of fine, Rigorous imprisonment for 1 year.

2.	Narinder Singh	22 read with 29 of Narcotic Drugs and Psychotropic Substances Act	Rigorous Imprisonment for 10 Years and fine Rs.1,00,000/- . In default of payment of fine, Rigorous imprisonment for 1 year .
3.	Amrinder Singh	22 read with 29 of Narcotic Drugs and Psychotropic Substances Act	Rigorous Imprisonment for 10 Years and fine Rs.1,00,000/- . In default of payment of fine, Rigorous imprisonment for 1 year .
4.	Sunny Kumar	22 read with 29 of Narcotic Drugs and Psychotropic Substances Act	Rigorous Imprisonment for 15 Years and fine Rs.1,00,000/- . In default of payment of fine, Rigorous imprisonment for 1 year .

84. The period of detention already undergone by the convicts during the investigation and trial shall be set off against the sentence of imprisonment imposed upon them as per the provisions of Section 428 Cr.P.C. **Fine not paid.** Case property be disposed off after expiry of period of appeal or revision, if any, as per law. File be consigned to the record room (Sessions), Fatehgarh Sahib.

Pronounced:

Dated: 03.07.2026

(Jagbir Singh Mehndiratta),
Judge, Special Court
Fatehgarh Sahib
UID No. PB00296

Manjinder Singh
(Judgment Writer-II)

