

PM, on the identification of the secret informer, accused Mohd. Husain was apprehended.

2. ASI Sudhir Kumar told about the secret information to the accused and gave notice u/s 50 of NDPS Act to him and informed that his search was to be conducted and told him about his legal rights that he could get himself searched before the Gazetted Officer or Magistrate, and for this purpose, he could also be produced before the Gazetted Officer or Magistrate. Accused was also told that he could take search of the members of the raiding team as well as the police vehicle, prior to his own search. The contents of the notice were read over to the accused and he was also told about the meaning of the Gazetted Officer and Magistrate. The accused refused to be searched in presence of Magistrate or Gazetted Officer. He himself had recorded his refusal on the carbon copy of the notice u/s. 50 of NDPS Act. On checking his personal search, no contraband was recovered. Thereafter, search of the bag, which was carried by the accused in his hand, was conducted, upon checking the said bag, one transparent polythene containing 'Matmaile Rung Ka Powder' was kept found. On checking by the field testing kit, it was found to be 'Heroin'. The total weight of the recovered contraband was found to be 200 grams. Two samples of 5-5 grams each were taken out from the recovered material. Pullandas were prepared. Thereafter, ASI Sudhir Kumar prepared rukka and got the FIR registered. Thereafter, investigation of the present case was carried out by ASI Abdul Barkat.

3. ASI Abdul Barkat prepared site plan at the instance of ASI Sudhir Kumar. After interrogation, accused was arrested

and personally searched by ASI Abdul Barkat. After interrogation, disclosure statement of the accused was also recorded and case property was deposited in malkhana. Special reports u/s. 57 NDPS Act regarding arrest of the accused and recovery of the Heroin were prepared. Samples were sent to the FSL. After completing the investigation, chargesheet u/s. 21 of NDPS Act was filed against accused Mohd. Husain. Later on, FSL result was received and same was filed on record.

4. After hearing arguments on charge, on dated 04.01.2019, charge u/s.21(b) of NDPS Act was framed against accused Mohd. Husain, qua recovery of 200 grams of Heroin, to which, he had pleaded not guilty and claimed trial.

5. In the present case, the prosecution has examined as many as 11 witnesses to prove the charge against the accused. (Inadvertently, both the witnesses i.e. Insp. Satinder Sangwan and SI Abdul Barkat were mentioned as PW-10).

6. **SI Ram Prasad** has been examined as **PW-1**. He has deposed that in the intervening night of 01/02.10.2018 at about 3:01 hours, on receipt of rukka from HC Dharmender, he got registered FIR No.250/18 u/s 21 of NDPS Act on computer through computer operator. He had also made kayami entry, vide DD No.1A and proved the copy of FIR as Ex.PW1/A and endorsement on the rukka, as Ex.PW1/C. He had also issued certificate u/s. 65-B Indian Evidence Act and proved the same as Ex.PW1/B.

7. **HC Birbal Singh** has been examined as **PW-2**. He has deposed that on 01.10.2018, at about 7:50 pm, he was told about secret information by ASI Sudhir Kumar that one boy

namely Mohd. Husain, who is resident of Bareilly, U.P., would bring the Heroin from Bareilly, U.P. and supply the same in Delhi. He has also deposed that ASI Sudhir had organized a raiding team. He being member of the raiding team had reached at the spot alongwith other staff members and secret informer.

8. He has further deposed that at about 9:35 pm, accused Mohd. Husain was apprehended and informed about the secret information and his legal rights regarding the search proceedings. A notice u/s. 50 NDPS Act was served upon the accused and contents of said notice were also duly read over and explained to the accused. However, the accused had refused to avail his legal rights. Accused also recorded his refusal/reply in his own handwriting in Hindi language on the carbon copy of the notice. He proved the carbon copy of notice as Ex.PW2/A and the refusal given by the accused as Ex.PW2/B.

9. He has further deposed that ASI Sudhir took cursory search of the accused and prepared memo nil recovery, as nothing was recovered during his cursory search. He proved the said memo, as Ex.PW2/C. Thereafter, search of the bag carried by the accused was got conducted. One transparent polythene containing muddy colour powder was recovered out of the said bag. The recovered substance was weighed on electronic weighing machine which was found to be 200 grams alongwith the transparent polythene. Out of the said substance, two samples of 5 grams each were taken out and converted the same into two cloth pullandas mark A-1 and A-2. The remaining 190 grams substance was converted into cloth pullanda mark A.

10. He has further deposed that thereafter, ASI Sudhir

had filled FSL form and sealed all the three pullandas and took the same into possession vide seizure memo Ex.PW2/D and prepared rukka and got deposited the case property in the malkhana and the present case was registered. He also proved the arrest memo of accused Mohd. Hussain, as Ex.PW2/E; his personal search memo, as Ex.PW2/F and disclosure statement of the accused, as Ex.PW2/G. He also correctly identified the accused alongwith the case property in the court.

11. **Sh. R. K. Ojha**, ACP, Narcotics has been examined as **PW-3**. He has deposed that on 01.10.2018, he had received information from Insp. Rajni Kant Sharma telephonically regarding a drug peddler who would come near the Pushta, Khajuri Chowk from Bareilly for supplying the drugs. He had asked Insp. Rajni Kant Sharma to take legal action in this regard. He has also deposed that on 02.10.2018, his Reader had produced copy of DD No. 26 u/s. 42 NDPS Act before him. He proved the same as Ex.PW3/A. His Reader also produced two separate reports u/s. 57 NDPS Act. He also proved both the reports, as Ex.PW3/B and Ex.PW3/C. He also attested all the relevant copies of DD entries at points A, for filing the challan.

12. **Insp. Rajni Kant Sharma** has been examined as **PW-4**. He has deposed that on 01.10.2018 at about 7:25 pm, ASI Sudhir had come to his office alongwith the secret informer and informed him about the secret information. He enquired from the informer regarding the secret information and after satisfying himself with the information, he informed about the same to ACP/N&CP Sh. R. K. Ojha telephonically, who had directed him to take necessary action accordingly.

13. He has further deposed that ASI Sudhir had produced DD No.26 (Ex.PW3/A) regarding the secret information in compliance of Sec. 42 NDPS Act. He had identified his signature on the same at point B. At about 11:30 am on 02.10.2018, ASI Abdul Barkat had produced accused Mohd. Hussain and special report u/s. 57 NDPS Act (Ex.PW3/B and Ex.PW3/C), before him which he had forwarded and sent to the office of ACP/N&CP. He had also identified his signatures at points B on DD No.27, 3, 8, 1A, 2A and 3A.

14. **ASI Mahesh Chand** has been examined as **PW-5**. He has deposed that on 25.01.17, he had issued seal of “6A P.S/NB Delhi” to ASI Sudhir vide entry at Sl. no. 7 in the relevant register maintained in that regard. He proved the photocopy thereof as Ex.PW5/A (OSR). He has also deposed that on 01.10.18, he had issued electronic weighing machine to ASI Sudhir Kumar, vide entry at Sl. no. 56 in the relevant register maintained in that regard. He proved the photocopy thereof as Ex.PW5/B (OSR).

15. **ASI Jag Narain** has been examined as **PW-6**. He has deposed that on 02.10.2018, Inspector Satender Sangwan, SHO PS Crime Branch had handed over to him three sealed pullandas duly sealed with the seals of “ 6A PS/NB Delhi ” and “SS” alongwith one FSL form and copy of seizure memo. He had deposited the same in malkhana and made entry at Sl. no. 4281 in register no. 19 in this regard. He proved the photocopy of said entry as Ex.PW6/A (OSR). He has also deposed that on the same day, ASI Abdul Barkat had deposited personal search articles of the accused i.e. original notice u/s 50 NDPS Act, one black colour purse containing coloured photocopy of Aadhar card of

Mohd. Hussain and cash amount of Rs. 310/-, as well as one mobile phone make Samsung (duos) of golden colour containing SIM of BSNL in the malkhana. He had deposited the same in malkhana and made entry at Sl. no. 4282 in register no. 19 in this regard. He proved the photocopy of said entry as Ex.PW6/B (OSR).

16. He has further deposed that on 03.10.18, he got deposited one sealed cloth pullanda bearing Mark 'A1' alongwith FSL form and copy of FIR of present case and photocopy of seizure memo in the office of FSL, Rohini through HC Nityanand vide RC no. 552/21/18. He proved the copy of RC, as Ex.PW6/C and copy of acknowledgment issued by FSL, as Ex.PW6/D. He has also deposed that on 19.12.18, HC Manveer had deposited one sealed pullanda duly sealed with the seal of FSL, Delhi and one sealed envelope containing FSL result in malkhana. He had made relevant endorsement in this regard against entry at Sl. no. 4281 in register no. 19.

17. **HC Nityanand** has been examined as **PW-7**. He has deposed that on 03.10.2018, as per instructions of the IO, he had collected one sealed parcel Mark A-1, form FSL, copy of FIR, seizure memo of contraband and RC No. 552/21 dt. 03.10.2018 from the MHC(M) and deposited the same at FSL, Rohini, vide receipt/acknowledgment no. 2018/ CHE-9178 dt. 03.10.2018.

18. **SI Sudhir Kumar** has been examined as **PW-8**. He has deposed that on 01.10.2018, he had joined investigation of the present case and lodged DD No. 26 regarding secret information and in respect of compliance of Sec. 42 of NDPS Act and DD No. 27 regarding leaving for the spot alongwith the other staff. He proved the true copy of DD No. 27, as Ex.PW8/A and

DD No. 26, as Ex.PW8/A1 and copy of DD No. 27, as Ex.PW8/B. He has deposed on the similar lines as deposed by HC Birbal.

19. He has further deposed that he had also prepared rukka in the present case and got the present FIR registered through HC Dharmender. He proved the rukka, as Ex.PW8/C and also deposed that ASI Abdul Barkat had prepared site plan of the spot at his instance and he proved the same, as Ex.PW8/D. He also correctly identified the accused in the court alongwith the case properties.

20. **ASI Dharmendra** has been examined as **PW-9**. He has deposed that on 01.10.2018, he had joined investigation of the present case alongwith ASI Sudhir Kumar and HC Birbal Singh. He has deposed on the similar lines, as deposed by ASI Sudhir Kumar and HC Birbal Singh and proved the search, arrest and seizure proceedings of the present case. He also correctly identified the accused in the court alongwith the case properties.

21. **Sh. Satinder Sangwan**, ACP (Licencing) has been examined as **PW-10**. He has deposed that on 02.10.2018, he was posted as SHO PS Crime Branch. At about 3:10 AM, HC Dharmender had produced three sealed cloth pullandas Mark A, A1 and A2 alongwith the FSL form and copy of seizure memo before him. He has also deposed that he had put his seals on all the sealed cloth pullandas and FSL form and signed thereon.

22. He has further deposed that he got deposited all the sealed pullandas and documents in the malkhana through ASI Jag Narayan, who made relevant entry in this regard in Register No.19. He proved the copy of relevant entry at serial no. 4281 in register no. 19 and lodged GD No. 002A, regarding compliance

of Sec. 55 of NDPS Act, vide Ex.PW10/A. He correctly identified the case properties in the court.

23. **SI Abdul Barkat** has been examined as **PW-10** (inadvertently mentioned as PW-10). He has deposed that on 02.10.2018, the investigation of the present case was assigned to him, thereafter, he had lodged DD No. 3 regarding his departure for the spot, and proved the same, as Ex.PW10/A. He made investigation of the present case and proved the relevant documents, prepared by him, or in his presence. He also correctly identified the accused in the court alongwith the personal search articles of the accused.

24. Accused had admitted the FSL report No. FSL-2018/C-9178 dated 18.12.2018, prepared by Sh. Yogesh Chandra Pandey, SSO Chemistry, as Ex.X1, vide separate statement under Section 294 Cr.P.C on 30.01.2026.

25. The following exhibits were proved by the witnesses examined by the prosecution, which are as under:-

Exhibit No.	Description of the exhibit	Proved/Attested by
Ex.PW1/A Ex.PW1/B	Copy of FIR. Certificate u/s. 65-B Indian Evidence Act regarding the present FIR.	PW-1 SI Ram Prasad
Ex.PW1/C	Endorsement on the rukka.	
Ex.PW2/A Ex.PW2/B Ex.PW2/C	Carbon copy of notice u/s. 50 of NDPS Act. Refusal of the accused. Nil recovery memo.	PW-2 HC Birbal Singh

Ex.PW2/D	Seizure memo of the case property.	
Ex.PW2/E	Arrest memo of the accused.	
Ex.PW2/F	Personal search memo of the accused.	
Ex.PW2/G	Disclosure statement of the accused.	
Ex.PW3/A	Copy of DD No. 26 u/s. 42 NDPS Act.	PW-3 Sh. R. K. Ojha, ACP
Ex.PW3/B & Ex.PW3/C	Reports u/s. 57 of NDPS Act.	
Ex.PW5/A	Copy of relevant entry in the seal issuance register.	PW-5 ASI Mahesh Chand
Ex.PW5/B	Copy of relevant entry in the weighing machine issuance register.	
Ex.PW6/A	Copy of relevant entry at Sl. No. 4281 in the register no. 19.	PW-6 ASI Jag Narain
Ex.PW6/B	Copy of relevant entry at Sl. No. 4282 in the register no. 19.	
Ex.PW6/C	Copy of RC No. 552/21/18.	
Ex.PW6/D	Copy of acknowledgment issued by the FSL.	
Ex.PW8/A	Copy of DD No.26.	PW-8 SI Sudhir Kumar
Ex.PW8/B	Copy of DD No.27.	
Ex.PW8/C	Rukka.	
Ex.PW8/D	Site Plan.	

Ex.PW10/A	GD No. 002A regarding compliance of Sec. 55 NDPS Act.	PW-10 Sh. Satinder Sangwan, ACP
Ex.PW10/A	True copy of GD No.3 regarding departure.	PW-10 SI Abdul Barkat
Ex.X1	FSL Report No. FSL-2018/C-9178 dated 18.12.2018	Admitted U/s. 294 CrPC

26. Statement of accused u/s. 313 CrPC was recorded. The accused denied all the incriminating circumstances and stated that he is innocent and he has been falsely implicated in the present case and nothing has been recovered from him, and the alleged recovery was planted upon him by the police. The accused did not wish to lead evidence in his defence.

27. I have heard learned Addl. PP for the State and learned Counsel for the accused.

28. Sh. F. M. Ansari, Ld. Additional PP for the State has submitted that the prosecution has proved the recovery of contraband from the accused. He has submitted that all the provisions under the NDPS Act were duly complied with in the present case and the charge has been proved beyond reasonable doubt, therefore, the accused may be convicted in the present case.

29. Ld. Addl. PP for the State has further argued that the prosecution has been able to prove the recovery of the alleged 200 grams Heroin from the possession of accused Mohd. Husain. Therefore, the presumptions u/s. 35 & 54 of NDPS Act squarely apply in this case and accused Mohd. Husain is liable to be convicted for committing the offences u/s.21(b) of the NDPS

Act.

30. Sh. Parveen, Ld. Legal Aid Counsel for accused has submitted to the contrary. He has submitted that in the present case, accused has been falsely implicated in the present case as no contraband was recovered from the accused and the alleged contraband has been planted upon the accused. It has been argued that there are material contradictions in the testimonies of the prosecution witnesses and also submitted that neither any public witness was joined during the recovery proceedings, nor those proceedings were videographed/photographed, which raises doubts in the entire recovery proceedings.

31. Ld. Counsel has also argued that there are glaring contradictions in the case of the prosecution, as the necessary guidelines regarding seizure and sampling of the alleged recovered contraband was not properly followed. There was no reference regarding compliance of Sec. 42 & 57 of the NDPS Act and there was total non-compliance of Sec. 52-A of the NDPS Act. Section 50 of the NDPS Act was also not properly complied with. Therefore, the accused is entitled to be acquitted.

32. I have considered the rival submissions, put forth by both the sides.

33. From the submissions of the learned Counsel, the following point for determination arise in the present case:

- a). Whether the recovery of 200 grams of Heroin was affected from the carry bag carried by the accused?
- b). Whether the prosecution has been able to prove

the recovery of 200 grams of Heroin from the accused beyond all reasonable doubt?

c). Whether the accused has been able to rebut the presumptions raised against him as per Sec. 35 & 54 of the NDPS Act?

34. Before a person can be held liable for commission of any offence, the prosecution has to establish his guilt beyond reasonable doubt.

35. I shall now delve into the appraisal of material available on record.

36. As per the case of the prosecution, on 01.10.2018, accused Mohd. Husain was arrested in the present case and 200 grams of Heroin is alleged to have been recovered from his possession. Admittedly, neither any public person was joined during recovery proceedings, nor any public person/independent witness has been examined during trial. All the witnesses examined by the prosecution, are either police officials or formal witnesses.

37. It is not in doubt that while the testimony of the police witnesses in absence of independent witnesses may be sufficient to secure conviction, if the same inspires confidence during the trial, however, lack of independent witness in certain cases can cast a doubt as to the credibility of the prosecution's case.

38. As per the version of PWs, the public persons were asked to join the investigation, but, none of them agreed and went away without disclosing their names and addresses. Further, the

IO has not produced any notice u/s. 160 of the CrPC which ought to have been served upon those available independent witnesses who allegedly refused to join the investigation.

39. While the testimony of the police officials cannot be discarded away merely because of the fact that no public witnesses were examined, however, their testimonies have to be scrutinized in more detail. If it is found that the police officials during the course of investigation did not even make endeavor to ask the public witnesses to join the investigation, did not even ask their names and details, etc. then it would cast a very serious doubt on the testimonies of the police officials.

40. The requirement of the police officials to make endeavour to ask the public witnesses to join the proceedings was discussed by the Hon'ble Supreme Court of India in the case of **Sahib Singh vs. State of Punjab AIR 1997 SC 2417**, wherein it interalia held the following:

“In a given case it may so happen that no such person is available or, even if available, is not willing to be a party to such search. It may also be that after joining the search, such persons later on turn hostile. In any of these eventualities the evidence of the police officers who conducted the search cannot be disbelieved solely on the ground that no independent and respectable witness was examined to prove the search but if it is found as in the present case that no attempt was even made by the concerned police officer to join with him some persons of the locality who were admittedly available to witness the recovery, it would affect the weight of evidence of the Police Officer, though not its admissibility.”

41. Therefore, in view of the above mentioned law, it becomes clear that while the testimony of the police officials cannot be discarded away altogether in the absence of any public witnesses, however, it would be prudent to examine or scrutinize their testimonies more closely and should preferably be corroborated.

42. I shall now delve into the appraisal of material available on record.

43. As per the case of the prosecution, on 01.10.2018, one secret information was received at about 7:10 PM that one person, namely, Mohd. Husain would come near Khajuri Chowk to supply Heroin to someone and if raid is conducted, he can be apprehended and Heroin can be recovered from him. It has been submitted by Ld. Addl. PP for the State that after complying with Sec. 42 NDPS Act, a raiding team was constituted, which reached at the spot and at about 9:35 PM, accused Mohd. Husain was apprehended after pointing out by the secret informer. The accused carrying a bag and when his bag was checked, one transparent polythene containing Heroin was found, which when weighed found to be 200 grams and after drawing two samples of 5 grams each, the samples as well as remaining Heroin was converted into the cloth parcels. Notice u/s. 50 of NDPS Act was prepared and served upon the accused Mohd. Husain. Accused had given his refusal in writing on the carbon copy of the notice u/s. 50 of NDPS Act.

44. The sample which was drawn at the spot, was sent to the FSL. As per the FSL result, on Chemical, TLC & GC-MS examination, Exhibit 'A-1' was found to contain

‘Diacetylmorphine (1.7%), ‘Acetaminophen’, Acetylcodeine’ & ‘6-Monoacetylmorphine’, and also Alprazolam and caffiene, which confirms the presence of Heroin. The report is Ex. X1.

45. So far as the present case is concerned, in the present case, the prosecution has been able to prove that when the secret information was received at 7:10 PM in the office of Narcotic Cell, the secret informer was produced before the Insp. Rajni Kant Sharma, who after satisfying himself about the contents of the secret information, conveyed the same to Sh. R. K. Ojha, ACP, Narcotic Cell, who had issued direction for conducting the raid and to carry out the relevant proceedings. Thereafter, the said secret information was reduced into writing, vide DD No. 26, which is Ex.PW3/A. In the considered opinion of this court, the said recording of the secret information in the form of DD No. 26 amounts to due compliance of Sec. 42 NDPS Act.

46. No doubt, as prior information was available, provisions of Sec. 42 of NDPS Act needed to be complied with fully. It has been held in **Karnail Singh Vs. State of Haryana (2009) 8 SCC 539** that total non-compliance with the provisions of Sec. 42 is impermissible. However, present case is not that of total non-compliance. Infact, this court is satisfied that provision of Sec. 42 of NDPS Act was duly complied with.

47. In the present case also IO as well as Insp. Rajni Kant Sharma and ACP Sh. R. K. Ojha have duly proved the necessary compliances u/s. 42 of NDPS Act as well as u/s. 57 NDPS Act.

48. So far as the arguments of the Ld. Counsel for the accused that Sec. 52A NDPS Act has not been complied with is also of no relevance in the present case, as now, the Hon'ble Supreme Court of India has clarified in case **Bharat Aambale v. The State of Chhattisgarh, in CrI. Appeal No. 250 of 2025 decided on 06.01.2025**, that Sec. 52A NDPS Act is for the disposal and inspection of the seized contraband in a safe manner and if the other material on record adduced by the prosecution, oral or documentary inspires confidence and satisfies the court as regards the recovery as-well as conscious possession of the contraband from the accused persons, then even in such cases, the courts can without hesitation proceed to hold the accused guilty notwithstanding any procedural defect in terms of Section 52A of the NDPS Act. Non-compliance or delayed compliance of the said provision or rules thereunder may lead the court to draw an adverse inference against the prosecution, however no hard and fast rule can be laid down as to when such inference may be drawn, and it would all depend on the peculiar facts and circumstances of each case.

49. It is settled position that Sec. 52-A of NDPS Act deals with disposal of seized contraband articles. Any violation of the said provisions will not vitiate the recovery of the contraband.

50. Thus, in the present case, mere non-compliance of Sec. 52-A NDPS Act will not make the entire recovery to be doubtful and will not amount to any adverse inference against the prosecution. Moreover, it is worth noticing that said alleged recovery was done on 01.10.2018 and the samples which were drawn from the said recovered contraband was sent to FSL on

03.10.2018 and there was not much time gap between the alleged recovery and sending of the samples to the FSL, therefore, possibility of tempering with the samples is also ruled out. This fact of depositing the samples at FSL has been duly proved HC Nityanand (PW-7).

51. Ld. Counsel for the accused has also raised argument of non-compliance of Sec. 50 NDPS Act, however, in the present case, non-compliance of Sec. 50 NDPS Act does not affect the case of the prosecution, as recovery of the contraband was done from the bag carried by the accused and not from his personal search. Otherwise also, this is not a case of total non-compliance of Sec. 50 of the NDPS Act. The notice given to the accused and refusal of the accused to the said notice have been duly proved. Therefore, Sec. 50 NDPS Act has also been duly complied with in the present case.

52. It is now well settled that compliance of Sec. 50 of NDPS Act is required only when the person of the accused is to be searched. If accused is carrying any article like bag, briefcase, container etc. then there is no need to comply with Sec. 50 of the said Act. Reference may be made to **Ajmer Singh vs. State of Haryana, (2010) 3 SCC 746**.

53. Lastly, it has been argued by Ld. Counsel for the accused that no public witness or Govt. official was joined during the proceedings, nor any videography/photography was done, which raises serious doubts upon the entire recovery proceedings. This court does not find any force in the said submissions also as all the witnesses who were part of the raiding team categorically mentioned that they asked 4-5 public persons to join the raiding

team, but they refused to do so.

54. Failure to join public witnesses cannot be considered fatal to the prosecution case. Reference may be made to **Ajmer Singh vs. State of Haryana, (2010) 3 SCC 746**. It was held in this case that if police failed to associate public witnesses after making reasonable efforts, then recovery cannot be doubted. In the present case also, reasonable efforts were made to join public persons but none agreed. Therefore, non-joining of any independent witness in the present case will not adversely affect the case of the prosecution and otherwise also this court does not find any contradiction in the depositions of any prosecution witness.

55. In the considered opinion of this court, the testimonies of all the prosecution witnesses are consistent enough and no material contradiction came out from cross-examination of the prosecution witnesses. It is well settled that once the recovery of the alleged contraband from the possession of the accused is proved, presumption u/s. 35 NDPS Act and Sec. 54 NDPS Act come into play. Sec. 35 of NDPS Act talks about culpable mental state and Sec. 54 of the Act raises presumption that the court may presume that the accused has committed the offence under this Act in respect to any Narcotic drug or Psychotropic substance or controlled substance for the possession of which, he fails to account satisfactorily and once these presumption are raised, onus shifts upon the accused to prove non-existence of such mental state as envisaged u/s. 35 of NDPS Act and also to satisfactorily explain the possession of the alleged contraband, as envisaged u/s. 54 of NDPS Act. In the considered

opinion of this court, accused has failed to rebut both the presumptions.

56. In view of the above discussion, this court has no hesitation in holding that the prosecution has been able to prove the guilt of the accused beyond all reasonable doubts.

57. Accordingly, accused Mohd. Husain is hereby convicted for the charged offence punishable u/s. 21(b) of NDPS Act.

58. Let convict be heard on sentence.

**Announced in the open court
on 23rd day of March, 2026**

**(PUNEET PAHWA)
Special Judge (NDPS)/Addl. Sessions Judge/
North East District/Karkardooma Courts/Delhi**