

**In the court of Bishan Saroop, Judge, Special Court, Moga.
(UID No. PB-0449)**

CNR No.PBMO010063622018.
CIS filing No.SC/162/2018.
Date of Institution :- 12.10.2018
Date of Decision : 10.02.2026.

State

Versus

1. Gurpreet Singh alias Gura son of Iqbal Singh son of Darbara Singh resident of village Daulewala Mayor, Tehsil Dharamkot, District Moga.
2. Jagjit Singh alias Jaggi son of Dharampal Singh son of Mal Singh resident of Ward No.8, Bauli Mohalla, Moga, District Moga.
3. Gurcharan Singh alias Charna son of Soma Singh son of Hari Singh resident of Indra Colony, Moga, District Moga.

----Accused.

FIR No.101 dated 24.05.2018,
Under Section : 22, 29 of NDPS Act and
Sections 379, 411 of IPC,
Police Station : City Moga.

Present :- Ms. Gunwantjit Manesh Addl. Public Prosecutor for State.
Accused Gurpreet Singh alias Guri on bail with his counsel
Sh. Narinder Kumar, Advocate, LADC,
Accused Jagjit Singh alias Jaggi in custody represented by
Sh. Onkar Singh Sidhu, Advocate (produced through VC)
Accused Gurcharan Singh on bail with Sh. Lovelesh Gupta,
Advocate

JUDGMENT

Accused, enumerated above, have been forwarded by Station House Officer of Police Station City Moga to face trial for the commission of offence under Section and 22, 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter in short referred to as “the Act”) as well

as offence under Section 379, 411 of Indian Penal Code (hereinafter in short referred to as “IPC” for allegedly having been found in conscious possession of 270 grams of intoxicant powder containing Alprazolam salt from accused Gurpreet Singh alias Guri and Jagjit Singh alias Jaggi while riding on a motorcycle bearing No.PB-29A-5006. Accused Gurpreet Singh alias Guri and Jagjit Singh alias Jaggi were also found in possession of ten stolen motorcycles knowingly or having reason to believe the same to be stolen property. Accused Gurcharan Singh had sold and supplied the aforesaid intoxicant powder to accused Gurpreet Singh alias Guri and Jagjit Singh alias Jaggi and thus, abetted the commission of offence.

2. Tersely put, case of prosecution is that on 24.05.2018, ASI Balwinder Singh along-with other police party while riding in Government vehicle bearing No. PB-29-L-9609 held naka bandi at T-Point Zira Road, Moga in connection with checking of vehicle. At about 5.30 PM, one motorcycle make Hero Deluxe bearing No. PB-29-A-5006 had come from the side of Zira road. Two persons were riding on the said motorcycle and they were signalled to stop but they had tried to turn back their motorcycle, but in that process the engine of said motorcycle was stopped. One weightment material in black color polythene bag was lying in middle of both the said persons. ASI Balwinder Singh had apprehended the said persons on the basis of suspicion. On inquiry, the driver of said motorcycle had disclosed his name as Gurpreet Singh alias Gura son of Iqbal Singh resident of Village Daulewala, District Moga and the pillion rider of the said motorcycle had disclosed his name as Jagjit Singh alias Jaggi son of

Dharampal Singh resident of Bauli Mohalla, Moga, District Moga. ASI Balwinder Singh had disclosed his identity to accused and told accused then one by one that he was having suspicion that there is some intoxicating substance in their possession and their search as well as search of their motorcycle as well as polythene bag is required to be conducted. ASI Balwinder Singh apprised both accused of their legal right to get their search as well as search of their motorcycle as well as their polythene bag conducted in presence of Gazetted officer or Magistrate, but both the accused had reposed confidence in him for their search. On this ASI Balwinder Singh had prepared consents memo of accused Gurpreet Singh and Jagjit Singh alias Jaggi. Thereafter he had conducted search of polythene bag carried by accused and same was found to be contained intoxicant powder and on weighment, it came out to be 270 grams. ASI Balwinder Singh had put the same into polythene bag from which the same was recovered and converted the same into a parcel and also sealed the same with his seal bearing impression "BS". Sample seal impression was prepared on CFSL form. Seal after use was handed over to ASI Gurjit Singh. He took the entire case property alongwith CFSL form in his possession vide separate memo. Personal search of both the accused was also conducted. Said motorcycle was also taken into police possession. Thereafter ruka was sent through HC Jagmohan Singh and on the basis of which, FIR was registered. Site was inspected and site plan was prepared. During interrogation of accused Gurpreet Singh alias Guri and Jagjit Singh alias Jaggi, accused Gurcharan Singh alias Charna was nominated in this case

under section 29 of NDPS Act. On return to police station, ASI Balwinder Singh had produced the accused along-with case property and CFSL form before SI Kulwinder Kaur, who was officiating as SHO of PS City Moga who had verified the facts of the case and put her seal bearing impressions “KK” on the parcel as well as on CFSL form. SI Kulwinder Kaur, took the entire case property in his possession vide handing over memo. During investigation, in pursuance of their disclosure statements under Section 27 of Indian Evidence Act, accused Gurpreet alias Guri and Jagjit Singh alias Jaggi had got recovered ten stolen motorcycles, which were taken into police possession. On 14.06.2018, accused Gurcharan Singh was arrested in this case after obtaining his production warrants from the court. On receipt of report from Chemical Examiner, and after the completion of all other necessary formalities of the investigation, the accused was challaned for having committed an offence punishable under Section 22, 29 of the NDPS Act and Sections 379, 411 of IPC.

3. On presentation of challan in the Court, the complete copies of challan and other documents appended with it, were supplied to the accused free of costs, as required under Section 207 Cr.P.C.

4. After hearing the learned Addl. P.P. for the State as well as learned defence counsel and after going through the documents on record, a prima facie case under Section 22 of the Act and Section 411 IPC was made out against the accused Gurpreet alias Guri and Jagjit Singh alias Jaggi and under Section 29 of the Act was made out against accused Gurcharan Singh and charge for the said offences was framed against accused to which they

pleaded not guilty and claimed trial.

5. In order to substantiate its version, the prosecution examined following witnesses :-

PW1	Constable Harpreet Singh, sample carrier
PW2	ASI Balwinder Singh, investigating officer
PW3	Vishal Kumar
PW-4	Supreet Singh
PW-5	Constable Jagmohan Singh
PW-6	ASI Jagmohan Singh No.93/Moga, recovery witness
PW-7	MHC Kulwant Singh
PW-8	Mohammad Azia, Data Entry Operator
PW-9	Neeraj Bhalla, Clerk SDM
PW-10	Neeraj Kumar, Junior Assistant, RTA Office, Ferozepur
PW-11	Inspector Gurpreet Singh
PW-12	Inspector Kulwinder Kaur
PW-13	HC Amritpal Singh
PW-14	SI Kuldeep Kumar
PW-15	ASI Harmesh Lal, recovery witness
PW-16	Retired ASI Shamsheer Singh

6. Thereafter, learned Addl.PP for State closed the prosecution evidence.

7. After closure of the prosecution evidence, statements of accused under Section 313 of the Code of Criminal Procedure were recorded, wherein all the incriminating evidence appearing against them, were put to them, to which they denied the allegations leveled against them by the prosecution and pleaded their innocence and false implication. No

recovery has been effected from them.

8. Although, the accused have opted to lead evidence in their defence but they did not examine any witness in their defence and thereafter, accused closed their defence evidence.

9. Before proceeding further, I would like to give brief resume of the statements of witnesses.

10. PW-1 C Harpreet Singh has tendered into evidence his duly sworn affidavit Ex.PW1/A

11. PW2 ASI Balwinder Singh, investigating officer has deposed that on 24.05.2018, he along-with ASI Gurjit Singh and other police officials while riding in Government vehicle bearing No. PB-29-L-9609 in connection with patrolling had held naka bandi at T. Point Zira Road, Moga. At about 5.30 PM, one motorcycle make Hero Deluxe bearing No. PB-29-A-5006 had come from the side of Zira road. Two persons were riding on the said motorcycle. On seeing the police party, they had tried to turn back their motorcycle, but in that process the engine of said motorcycle was stopped. One weightment material in black color polythene bag was lying in middle of both the said persons. They were apprehended on the basis of suspicion. On inquiry, driver of the motorcycle had disclosed his name as Gurpreet Singh alias Gura son of Iqbal Singh resident of Village Daulewala, District Moga and pillion rider had disclosed his name as Jagjit Singh alias Jaggi son of Dharampal Singh resident of Bauli Mohalla, Moga, District Moga. He had disclosed his identity to accused and told them one by one that he was having suspicion that there is some intoxicating substance in

their possession and their search as well as search of their motorcycle as well as polythene bag is required to be conducted. He apprised accused of their legal right to get their search as well as search of their motorcycle as well as their polythene bag conducted in presence of Gazetted officer or Magistrate, but accused had reposed confidence in him for their search. On this he had prepared consent memos of accused Gurpreet Singh and Jagjit Singh and same are Ex.P1 and Ex.P2. Thereafter he had conducted search of polythene bag carried by accused and same was found to be contained intoxicant powder. He had weighed the said powder and same was found to be 270 grams. He had put the same into polythene bag from which the same was recovered and converted the same into a parcel. Then he had sealed parcel with his seal bearing impression "BS". Sample seal impression was prepared on CFSL form, which is Ex.P3. Seal after use was handed over to ASI Gurjit Singh. Then he took the entire case property alongwith CFSL form in his possession vide separate memo Ex.P4. On personal search of accused, nothing was recovered. He had prepared two separate memos Ex.P5 and Ex.P6 in this regard. He took the above said motorcycle into his possession vide separate memo Ex.P7.

12. PW2 ASI Balwinder Singh has further deposed that thereafter he had sent ruka Ex.P8 through HC Jagmohan Singh to PS City Moga for registration of the case. On the basis of said ruka, FIR Ex.P9 was registered at PS City Moga by SI Kulwinder Kaur. SI Kulwinder Kaur had made his endorsement Ex.P10 on the ruka. He had prepared site plan at the spot, which is Ex.P11. He had arrested accused Gurpreet Singh and prepared

memo of grounds of his arrest and same is Ex.P12. He had arrested accused Jagjit Singh and prepared memo of grounds of his arrest and same is Ex.P13. Intimation regarding arrest of accused was given through memo Ex.P14. He had recorded statements of the witnesses at the spot. On return to police station, he had produced accused along-with case property and CFSL form before SI Kulwinder Kaur, who was officiating as SHO of PS City Moga. SI Kulwinder Kaur, had verified the facts of the case and put her seal bearing impressions “KK” on the parcel as well as on CFSL form. SI Kulwinder Kaur, took the entire case property in his possession vide handing over memo Ex.P15. On receipt of report of FSL Ex.P16. Accused Gurcharan Singh was nominated in this case by SI Kulwinder Kaur under section 29 of NDPS Act. Accused Gurcharan Singh was in custody in connection with some other case. He got the production warrants issued from the court of learned CJM, Moga and on 14.06.2018, accused Gurcharan Singh was produced before the court in pursuance of said production warrants. Then he had arrested accusedf after getting permission from the court and prepared his arrest memo Ex.P17 in this regard. During investigation, ten stolen motorcycle were recovered from the possession of accused Jagjit Singh. During the course of investigation, he had recorded the statements of other witnesses. On 11.06.2018 he was present in the police station. Vishal Kumar son of Tara Chand resident of Patti Malo Ke, Moga had come to police station and identified his motorcycle make Hero CD Deluxe bearing No. PB-29-N-5408. He had prepared identification memo in this regard and the said memo is Ex.P18. On 13.06.2018 he was present in

the police station where Supreet Singh son of Shamsher Singh resident of Hakam Ka Agwar, Moga had come to police station and identified his motorcycle make Hero Passion Pro bearing No. PB-29-R-1896. He had prepared identification memo in this regard and the said memo is Ex.P19. During the course of investigation, he had recorded the statements of other witnesses. He identified accused present in court.

13. PW3 Vishal Kumar has deposed that he is owner of a motorcycle make CD Deluxe of black color bearing No. PB-29-N-5408. On 02.04.2018 unidentified person had stolen his motorcycle from the outside of Apple Mobile Store (Pluton), Partap Road, Moga. R/C of above said motorcycle was issued in his name. He had got recorded an FIR No. 83 dated 12.04.2018 under section 379 IPC at PS City South Moga. Later on he came to know that this motorcycle was recovered by the police of PS City Moga. He came there and identified his motorcycle. Memo regarding identification of his motorcycle was prepared by ASI Balwinder Singh and the said memo Ex.P18. He had taken the above said motorcycle on sapurdari. He has brought the original R/C of his motorcycle in court and copy of the same is Ex.PW3/A.

14. PW-4 Supreet Singh has deposed that he is owner of motorcycle bearing registration No. PB-29-R-1896. On 24.05.2018, his above said motorcycle was stolen from Bus Stand, Moga by unknown thieves and in this regard he gave information at PS City Moga. After some time, he came to know that police of PS City Moga has recovered some motorcycles and the same are lying parked in the police station compound. He visited PS

City Moga on 13.06.2018, where his motorcycle lying parked. He identified his motorcycle regarding memo of identification Ex.P19 was prepared by Investigating officer. He has seen copy of screen report of his motorcycle in the court file and same is Ex.PW4/A. His statement was recorded by the Investigating officer in this regard.

15. PW-5 C Jagmohan Singh has tendered into evidence his duly sworn affidavit Ex.PW5/A.

16. PW-6 ASI Jagmohan Singh No.93/Moga who was member of the police party headed by ASI Balwinder Singh has also supported and corroborated the version of PW-2 ASI Balwinder Singh, investigating officer. He further deposed that on 26.05.2018 during investigation of the case by ASI Gurjit Singh, accused Gurpreet Singh suffered disclosure statement in his presence that they had stolen ten motor-cycles from Moga City and they had kept concealed the said motor-cycle under the bridge of drain Moga-Amritsar G.T.Road, in the area of village Daulewala, and he is exclusive knowledge of the same and can get the same recovered on his demarcation. Then Investigating officer had prepared disclosure statement of accused Gurpreet Singh as Ex.P20. Thereafter during investigation, accused Jagjit Singh has also suffered his disclosure statement that they had stolen ten motor-cycles from Moga City and they had kept concealed the said motor-cycle under the bridge of drain Moga-Amritsar G.T.Road, in the area of Village Daulewala, and he is exclusive knowledge of the same and can get the same recovered on his demarcation. Then Investigating officer had prepared disclosure statement of accused Jagjit Singh as Ex.P21.

Thereafter accused had led the police party to the disclosed place and got recovered ten motor-cycles as per their disclosure statements. Investigating officer took the said motor-cycle into police possession after noting down their Engine Number, Chassis numbers and registration numbers, vide memo Ex.P22. Investigating officer had prepared site plan Ex.P23 of the place of recovery. His statement was recorded by the Investigating officer.

17. PW-7 MHC Kulwant Singh has deposed that he has brought the summoned record regarding DDR register. He has seen attested copy of the DDR no. 16 dated 27.05.2018 in the court file and same is correct as per record and copy of the same is Ex.PW7/A.

18. PW-8 Mohammad Azad Data Entry Operator has deposed that he has brought the summoned record i.e screened report of vehicle Splender Plus Motor-cycle bearing registration No.CH01-AG0335 in the name of Surjit Singh son of Hakam Singh, R/o H. No.109 village Badheri Chandigarh. Said screened report duly certified by Registering Authority UT Chandigarh and certificate under Section 65B of the Indian Evidence Act Ex.PW8/A and Ex.PW8/B respectively.

19. PW-9 Neeraj Bhalla Clerk, SDM cum Registering Authority (Motor Vehicle) Moga has deposed that he has brought the summoned record i.e screened report of vehicle Chetak Scooter bearing registration No. PB29A-5006 in the name of Jaspal Singh son of Basant Singh, R/o Ghali House Court Road Moga, screened report of vehicle CD Delux motor-cycle bearing registration No. PB29N-8829 in the name of Nou Nihal Singh son of Gurmail Singh, R/o VPO Talwandi Bhangeria, District Moga, screened

report of vehicle Passion Pro Motor-cycle bearing registration No.PB29R-1896 in the name of Supreet Singh Son of Shamsher Singh R/o Ward No.13, H.No.146 Hakam Ka Agwar Purana Moga, screened report of vehicle Delux motor-cycle bearing registration No. PB29S-5660 in the name of Amarjeet Singh son of Jagjit Singh, R/o VPO Jaimal Wala Tehsil Baghapurana, District Moga, screened report of vehicle HF-Delux Motor-cycle bearing registration No. PB29U-4611 in the name of Gurdip Singh Sond son of Sagar Singh, R/o Dan Patti VPO Karyal District Moga, screened report of vehicle CD-Delux motor-cycle bearing registration No. PB29N-5408 in the name of Vishal Kumar son of Tara Chand, R/o H.No.30/510 Patti Mallo Di, Gali No.5 Moga, screened report of vehicle Glamour Motor-cycle bearing registration No. PB29G-8903 in the name of Balwinder Singh son of Karam Singh, R/o Longi Wind, District Moga. Said screened reports duly certified by him on behalf of Registering Authority Moga and certificate under Section 65-B of the Indian Evidence Act are Ex.PW9/A to Ex.PW9/H respectively.

20. PW-10 Neeraj Kumar Junior Assistant RTA Office, Ferozepur has deposed that he has brought the summoned record i.e. screen report of motorcycle make Bajaj CT-100 bearing registration No. PB05-AF-5083. As per their record, the said motorcycle is registered in the name of Manjit Singh son of Surjit Singh resident of Hukamat Singh Wala, District Ferozepur. He has proved attested copy of the said screen report as Ex.PW10/A and certificate under section 65-B of Evidence Act as Ex.PW10/B.

21. PW-11 Inspector Gurpreet Singh has deposed that on 28.05.2018, MHC Shamsheer Singh had produced one sample parcel duly sealed with seal bearing impressions "ACJM, Moga" and Form No.29-M before him. He had converted the same into another parcel and mentioned his secret Code No. 14, on the said parcel and sealed the same with his seal bearing impressions "GS". On the same day, he had handed over the said sample and Form No.29-M to C Harpreet Singh and directed him to get the docket forwarded from the office of SSP, Moga and to deposit the sample parcel in the FSL, Ludhiana. On return to the police station, he had produced the receipt before him. So long as the case property remained with him, neither he tampered with the same nor anybody allowed to do so. His statement was recorded by the Investigating officer in this case.

22. PW-12 Kulwinder Kaur has deposed that on 24.05.2018, she was working as officiating SHO PS City Moga. She had received a ruqa Ex.P8, sent by ASI Balwinder Singh through HC Jagmohan Singh. She had registered the FIR Ex.P9 and made endorsement Ex.P10. On the same day, after investigation, ASI Balwinder Singh had produced accused along-with case property i.e. one parcel containing 270 gms. Intoxicant powder duly sealed with seal bearing impression "BS" alongwith CFSL form i.e. Ex.D3 along-with motor-cycle Hero Deluxe bearing No. PB-29-A-5006. She had verified facts of the case and had affixed her seal bearing impression "KK" on the parcel and CFSL form Ex.P3. She took the case property into her possession vide handing over memo Ex.P15. She had lodged accused in lock up and kept case property in her safe custody. She had sent report under

section 57 of NDPS Act to Shri Kesar Singh, DSP, City Moga, which is Ex.PW12/A. She identified signatures of Shri Kesar Singh, DSP, City Moga on endorsement Ex.PW12/B. On 25.04.2018, she had produced accused alongwith case property and CFSL Form before the court of Mrs. Deepti Gupta, ACJM Moga. She had moved an application under section 52-A of NDPS Act Ex.P12/C before the court. Court had withdrawn two parcels of 10 grams each of said intoxicant powder i.e. one sample parcel and one representative sample from bulk parcel and sealed bulk parcel, sample parcel and representative sample with seal of court bearing impression “ACJM MOGA” and passed an order Ex.PW12/D. Nirbhai Singh photographer had clicked the photographs Ex.PW12/E to Ex.PW12/G of inventory proceedings at that time. She had deposited bulk parcel and representative parcel in judicial malkhana. On return to police station, she handed over sample parcel and CFSL Form to HC (malkhana) Shamsheer Singh.

23. PW-13 HC Amritpal Singh has deposed that she has brought the summoned record i.e. original register bearing FIR No.83 dated 12.04.2018 under section 379 IPC of PS City South Moga. The present FIR has been registered on the statement of Vishal Kumar regarding the theft of his motorcycle No. PB29N-5408. The present FIR has been registered by ASI Sukhdev Singh. He has proved attested copy of FIR as Ex.PW13/A.

24. PW-14 SI Kuldeep Kumar has deposed that on 16.08.2018, he was posted at PS City Moga and investigation of present case was entrusted to him. During the course of investigation, he had recorded statements of

HC Dilbagh Singh, HC Jaswant Singh, Nirbhai Singh Photographer, HC Shamsher Singh, Inspector Gurpreet Singh, Ct. Harpreet Singh, Ct. Jagmohan Singh, Saral Daniya Ahlmad, RTA Clerk, Moga Jawinder Singh, RTA Clerk Ferozepur Jaswinder Singh, Surinder Kaur RTA Clerk, Ludhiana Ravi Kumar RTA Clerk Chandigarh under section 161 Cr.P.C. After completion of investigation, the final report under section 173 Cr.P.C. was prepared by Inspector Gurpreet Singh and challan was presented in the Court.

25. PW-15 ASI Harmesh Lal, recovery witness has also supported and corroborated the version of PW-2 ASI Balwinder Singh, investigating officer.

26. PW-16 ASI Shamsher Singh has tendered into evidence his duly sworn affidavit Ex.PW16/A.

27. Learned Additional Public Prosecutor for the State argued that accused Gurpreet Singh alias Guri and Jagjit Singh alias Jaggi were found in conscious possession of 270 grams of intoxicant powder containing Alprazolam salt without any license or permit and they were also found in possession of ten stolen motorcycle knowingly or having reason to believe the same to be stolen property. Accused Gurcharan Singh had sold and supplied the aforesaid intoxicant powder to accused Gurpreet Singh alias Guri and Jagjit Singh alias Jaggi and thus, abetted the commission of offence. It was next argued that the recovery was duly proved to have been effected from the accused persons. The link evidence in this case is complete and it can be said with certainty that accused were found in

conscious possession of intoxicant powder as well as stolen motorcycles. The case property remained intact right from the point of recovery till the sample along with sample seal reached the Chemical Examiner. He further argued that the recovery as well as involvement of the accused was duly proved in the testimony of police officials who corroborated evidence of each other in minute details.

28. On the other hand, the learned defence counsel's appearing on behalf of all the accused has contended that the prosecution has miserably failed to bring home guilt to the accused beyond reasonable shadow of doubt. They have attacked the prosecution version on various counts and, thus, prayer for acquittal of all the accused has been made.

29. After hearing both the sides and having perused the entire oral as well as documentary evidence, available on the file, it is found that the prosecution has been able to connect the accused Gurpreet Singh alias Gura and Jagjit Singh alias Jaggi with the commission of crime whereas the prosecution has not been able to prove its case against the accused Gurcharan Singh. All the prosecution witnesses were cross-examined at length by the learned defence counsel's appearing on behalf of accused Gurpreet Singh alias Gura and Jagjit Singh alias Jaggi but nothing favourable could be extracted. Investigating Officer of this case, ASI Balwinder Singh (PW-2), recovery witness ASI Harmesh Lal (PW-15), have deposed in unison with regard to the date, time, place and manner of recovery. There is nothing on record to doubt the veracity of the prosecution evidence. No enmity has been alleged or proved by the accused Gurpreet

Singh alias Gura and Jagjit Singh alias Jaggi against the Investigating Officer or the other prosecution witnesses and as such it is not expected at the hands of the police that they will falsely implicate the accused for the commission of such a serious offence.

30. Still, learned defence counsel's appearing on behalf of accused Gurpreet Singh alias Gura and Jagjit Singh alias Jaggi have attacked the prosecution version on the ground that no independent witness was joined in the present case and in absence of independent witness, the prosecution story is highly doubtful.

31. However, this contention of the learned defence counsel's cuts no ice. It is a settled proposition of law that there is no hard and fast rule that independent witness be joined invariably. It is settled proposition of law that testimonies of the official witnesses are as good as of independent witnesses. Statements of the official witnesses cannot be discarded merely on the ground of colour of their office. The only analogy, which is to be kept in mind while relying upon the testimonies of the official witnesses is that their testimonies are to be scrutinized with more care and caution. Keeping in view this analogy in mind, I have scrutinized the testimonies of the official witnesses with more care and cautiously, which were subjected to lengthy cross-examination, but, they could not be budged on any material aspect of the case of the prosecution except minor discrepancies. There is nothing on record to disbelieve the police officials and that they are truthful and credible. There is no reason for false implication. Here, reliance can be placed upon the case law titled as *Jarnail Singh Vs. State of Punjab, 2011(1)*

RCR (Criminal), (SC), page 925, wherein, it has been held that reluctance to join the police party on the part of the villagers is neither strange nor unbelievable. Generally, people belonging to the same village would not unnecessarily want to create bad relations/enmity with any other co-villager. Further reliance is placed on the judgment of the Hon'ble Apex Court in case *Dharampal Singh Vs. State of Punjab (SC) 2010(9) SCC 608*, wherein it has been held that the case of the prosecution cannot be rejected only on the ground that independent witnesses have not been examined, in case on appraisal of evidence on record that court finds the case of the prosecution to be trustworthy. It has come in the evidence of the prosecution witnesses that an attempt was made to join person from public at the time of search but none was available. On the face of it, mere absence of independent witnesses at the time of search and seizure will not render the case of the prosecution unreliable. Thus, in view of the above said principle of law, as the testimonies of the prosecution witnesses inspire confidence, no dent is caused in the prosecution version due to non-joining of independent witness. Therefore, submission of the learned defence counsel's in this regard, being without merit, must fail and the same stands rejected.

32. Second contention of learned defence counsel's appearing on behalf of the accused Gurpreet Singh alias Gura and Jagjit Singh alias Jaggi that mandatory provisions of Section 50 of the NDPS Act has not been complied with in the present case as both the accused were not produced before the nearest Magistrate or Gazetted Officer to get conducted their search as well as search of polythene bag carried by them. The aforesaid

contention of learned defence counsel is not tenable in the eyes of law as the recovery in this case was effected by PW-2 ASI Balwinder Singh, who has apprised both the accused one by one about their legal right to get their search as well as search of polythene bag and motorcycle conducted in the presence of Gazetted Officer or Magistrate but both the accused reposed confidence upon him and in this regard, their separate consent memos Ex.P1 and Ex.P2 were prepared and accused have put their signatures/thumb impression on consent memos. Moreover, as per the prosecution case, in the case in hand, the recovery of 270 grams of intoxicant powder was duly effected from the polythene bag which was lying in middle of both the accused persons on the seat of motor-cycle. Since, the recovery was not effected from the personal search of the accused, as such, non compliance of the provisions of Section 50 of NDPS act is not fatal to the case of the prosecution at all. In this regard, this court placed reliance upon the case law titled as Ajmer Singh Vs. State of Haryana 2010(2) RCR 132(SC) wherein it was held by the Hon'ble Supreme Court that, *“question of compliance or non compliance of section 50 of NDPS Act is relevant only in case of personal search of a person and compliance of section 50 is not necessary if the recovery has not been effected from his personal possession.”* Further, the Hon'ble Supreme Court in case titled as Jeet Ram Versus The Narcotics Control Bureau, Chandigarh in Criminal Appeal No.688 of 2013 decided on 15.9.2020, has held that :-

“Condition of search of person. Non-compliance of mandatory provision. Section 50 of NDPS Act applicable only in case of personal search, as such, no basis for findings recorded by trial court that there

was non-compliance of provision under Section 50 of the NDPS Act.”

33. Therefore, in the case in hand, the recovery was not effected from the personal search of the accused Gurpreet Singh alias Gura and Jagjit Singh alias Jaggi, as such there was no need for the investigating officer to produce the accused before any Magistrate or Gazetted Officer. Hence, the contention of learned defence counsel's that there is no compliance of the Section 50 of the NDPS Act is devoid of any merits.

34. Thirdly, learned defence counsel's have further assailed the prosecution version on the ground that there are so many flaws, inconsistencies and discrepancies in the statements of the prosecution witnesses, which go to the root of the case and the accused are entitled to acquittal on this score also. But the learned defence counsel could not point out any major contradiction, inconsistency or discrepancies in the statements of the prosecution witnesses. However, the accused cannot be permitted to take benefit of such type of hyper technicalities. More so, some flaws, and contradictions, pointed out by the learned defence counsel, cannot be termed as material. Such type of minor contradictions and discrepancies are bound to occur with the passage of time even in the statements of most truthful witnesses. It is very difficult for a witness to give out a precise out of the occurrence after the passage of long time. None can narrate the past events with mathematical certainty. Moreover, these witnesses are to appear in a number of such cases and they cannot be expected to remember each and every detail of the occurrence after the lapse of time. In this regard, this court is fortified with the law laid down by the Hon'ble Supreme Court in

Ram Kumar Vs. Central Bureau of Narcotics, 2008(3) RCR(Criminal), 600 (SC), where it has been held that minor contradictions and inconsistencies are immaterial. It is obvious that after the lapse of time, the contradictions are bound to occur in the statements of the witnesses. The discrepancies so pointed out by the learned defence counsel, in the opinion of the court, do not go to the root of the case and accused cannot be benefited because of such discrepancies. In view of the above authoritative pronouncement that the evidence of the witnesses must be read as a whole and the cases are to be considered in totality of the circumstances and while appreciating the evidence of a witness, minor discrepancies on trivial matters, which do not affect the core of the prosecution case, should not be taken into consideration as they cannot form grounds to reject the evidence as a whole. As such this contention of learned defence counsel's carries no weight.

35. Further more the recovery of intoxicant powder effected from the aforesaid accused Gurpreet Singh alias Gura and Jagjit Singh alias Jaggi is commercial one and keeping in view totality of the facts of the present case it cannot be believed on the mere asking of the accused that such a huge and valued recovery of 270 grams of intoxicant powder was falsely foisted upon them particularly in view of the fact that there is no case of the defence that the police officials had any previous enmity with them. I am supported in my aforestated view by the law laid down by the Hon'ble Apex Court in ***Baldev Singh Vs. State of Haryana (SC) 2015(4) RCR(Criminal) 1014*** whereby the Hon'ble Apex Court has held as under:-

“Recovery of 33 bags of Poppy Husk from accused-
contention of accused that a false case was foisted against

him.

(i) Huge quantity of poppy straw was recovered from the possession of the appellant-Admittedly, the police officials had no previous enmity with the appellant-Contention not believed.

(ii) It is not possible to accept the contention of the appellant that he is being falsely implicated as it is highly improbable that such a huge quantity has been arranged by the police officials in order to falsely implicate the appellant.”

36. Learned defence counsel’s further argued that link evidence in the instant case is not complete, hence accused should be acquitted but this court does not agree with this arguments. However prosecution argued that the arguments is fallacious and addressed just for sake arguments. In the opinion of this court prosecution has been able to establish that case property right from recovery till examination of sample by chemical examiner and it remained intact and beyond tempering and time wherever occurred, was very natural and normally required to perform that task in ordinary circumstances. Prosecution had examined recovery witnesses, IO and also examined the person with whom it was deposited and the person who took the sample for chemical examination. In fact, so many other members of the intercepting team were also examined. Supporting police personal had also been examined. Chemical Report is also on record. Complete link evidence therefore exists on record. The arguments of the defence counsel, relying on this alleged shortcoming is therefore, rejected.

37. Now a word about defence needs to be recorded. Accused

Gurpreet Singh alias Gura and Jagjit Singh alias Jaggi have come forward with a pleas that they have been falsely implicated in this case. Nothing incriminating has been recovered from them. However, the defence pleas put-forth by the accused do not inspire confidence and appear to be an afterthought. However, the accused did not produce any oral as well as documentary evidence in order to substantiate their defence pleas. Therefore, the defence pleas taken by the accused remains in air. In the presence of direct evidence adduced by the prosecution, the defence plea of the accused to the effect that they are innocent and have been falsely implicated in this case, cannot be accepted. Even otherwise, the defence propounded by the accused appears to be an afterthought and the same is not reliable. More so, admittedly the accused Gurpreet Singh alias Gura and Jagjit Singh alias Jaggi neither moved any complaint nor appeared before any higher police authority after the occurrence regarding their false implication. Therefore, no reliance can be placed on the defence pleas taken by the accused. To say the least, defence version is quite patch of lies and figment of imagination, spun out after presentation of challan and the same is rejected as a whole.

38. In the present case, accused Gurpreet Singh alias Gura and Jagjit Singh alias Jaggi have also been chargesheeted under Section 411 IPC for having found in conscious possession of 10 stolen motorcycles knowingly or having reason to believe the same to be stolen property as the same were got recovered by them in pursuance of their disclosure statements Ex.P20 and Ex.P21. In order to prove the offence under Section 411 IPC, the

prosecution has proved on record copy of FIR Ex.PW13/A through the testimony of PW-13 HC Amritpal Singh. Perusal of said FIR No.83 dated 12.04.2018, U/s 379 IPC, registered at PS City South, Moga shows that same was got registered on the basis of statement of Vishal Kumar regarding theft of his motorcycle No.PB-29N-5408. During investigation, ownership of said motorcycle car was got verified and PW-9 Neeraj Bhalla, Clerk SDM, Moga has proved screen report of CD-Deluxe motorcycle bearing Registration No.PB-29N-5408 as Ex.PW9/F showing the said vehicle was registered in the name of Vishal Kumar son of Tara Chand resident of House No.30/510, Patti Mallo Ki, Gali No.5, Moga. The prosecution has also examined PW-3 Vishal Kumar, owner of said motorcycle bearing Registration No.PB-29N-5408, who also deposed that on 02.04.2018 some unidentified person had stolen his motorcycle No.PB-29-N-5408 from the outside of Apple Mobile Store (Pluton), Partap Road, Moga. He had got recorded an FIR No. 83 dated 12.04.2018 under section 379 IPC at PS City South Moga. Later on he came to know that this motorcycle was recovered by the police of PS City Moga. He came there and identified his motorcycle vide identification memo Ex.P18. He had taken the above said motorcycle on sapurdari. He has proved copy of RC of said motorcycle as Ex.PW3/A.

39. The prosecution further examined PW-4 Supreet Singh, who has deposed that he is owner of motorcycle bearing registration No. PB-29-R-1896. On 24.05.2018, his above said motorcycle was stolen from Bus Stand, Moga by unknown thieves and in this regard he gave information at PS City Moga. After some time, he came to know that police of PS City

Moga has recovered some motorcycles and the same are lying parked in the police station compound. He visited PS City Moga on 13.06.2018, where he identified his motorcycle vide identification memo Ex.P19. He has seen proved copy of screen report of said motorcycle as Ex.PW4/A. During investigation, ownership of said motorcycle car was got verified and PW-9 Neeraj Bhalla, Clerk SDM, Moga has proved screen report of Passion Pro motorcycle bearing Registration No.PB-29R-1896 as Ex.PW9/C showing the said vehicle was registered in the name of Supreet Singh son of Shamsher Singh resident of Ward No.13, House No.146, Hakam Ka Agwar, Moga. Thus, from the entire evidence led by the prosecution, it clearly shows that the aforesaid motorcycle bearing Registration No.PB-29N-5408 was stolen on 02.04.2018, whereas motorcycle bearing No. PB-29-R-1896 was stolen on 24.05.2018 and later on the same was got recovered from the possession of the accused Gurpreet Singh alias Gura and Jagjit Singh alias Jaggi.

40. To prove the ownership of remaining eight motorcycles, the prosecution has examined PW-8 Mohammad Azad Data Entry Operator who has proved on record attested copy of screened report of vehicle Splender Plus Motor-cycle bearing registration No.CH01-AG0335 in the name of Surjit Singh son of Hakam Singh, R/o H. No.109 village Badheri Chandigarh as Ex.PW8/A and certificate under Section 65B of the Indian Evidence Act as Ex.PW8/B. The prosecution also examined PW-9 Neeraj Bhalla Clerk, SDM cum Registering Authority (Motor Vehicle) Moga who has proved on record attested copies of screened report of vehicle Chetak

Scooter bearing registration No. PB29A-5006 in the name of Jaspal Singh son of Basant Singh, R/o Ghali House Court Road Moga, screened report of vehicle CD Delux motor-cycle bearing registration No. PB29N-8829 in the name of Nou Nihal Singh son of Gurmail Singh, R/o VPO Talwandi Bhangeria, District Moga, screened report of vehicle Delux motor-cycle bearing registration No. PB29S-5660 in the name of Amarjeet Singh son of Jagjit Singh, R/o VPO Jaimal Wala Tehsil Baghapurana, District Moga, screened report of vehicle HF-Delux Motor-cycle bearing registration No. PB29U-4611 in the name of Gurdip Singh Sond son of Sagar Singh, R/o Dan Patti VPO Karyal District Moga, screened report of vehicle Glamour Motor-cycle bearing registration No. PB29G-8903 in the name of Balwinder Singh son of Karam Singh, R/o Longi Wind, District Moga as Ex.PW9/A, Ex.PW9/B, Ex.PW9/D, Ex.PW9/E, Ex.PW9/G respectively and certificate under Section 65-B of the Indian Evidence Act is Ex.PW9/H. The prosecution further examined PW-10 Neeraj Kumar Junior Assistant RTA Office, Ferozepur who has proved on record attested copy of screen report of motorcycle make Bajaj CT-100 bearing registration No. PB05-AF-5083 in the name of Manjit Singh son of Surjit Singh resident of Hukamat Singh Wala, District Ferozepur as Ex.PW10/A and certificate under section 65-B of Evidence Act as Ex.PW10/B.

41. From the statements of aforesaid witnesses, one thing came out that Surjit Singh son of Hakam Singh, Jaspal Singh son of Basant Singh, Nau Nihal Singh son of Gurmail Singh, Amarjeet Singh son of Jagjit Singh, Gurdeep Singh Sond son of Sagar Singh, Balwinder Singh son of Karam

Singh and Manjit Singh son of Surjit Singh are owners of said aforesaid motorcycles. Although, prosecution has failed to prove on record any DDR/FIR regarding the theft of aforesaid motorcycles but there is no explanation from the side of accused Gurpreet Singh alias Gura and Jagjit Singh alias Jaggi that how the aforesaid motorcycles came into their possession. As per Section 114 of Indian Evidence Act “ *The Court may presume existence of any facts which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.*” Since, the stolen motorcycles were recovered from the possession of accused persons and they have failed to give any explanation regarding the same, as such, presumption can be drawn motorcycles recovered from the accused persons are stolen property. Therefore, the charge under Section 411 IPC has duly been fully established against both the accused namely Gurpreet Singh alias Gura and Jagjit Singh alias Jaggi.

42. Further defence counsel appearing on behalf of accused Gurcharan Singh contended that prosecution failed to prove the case against Gurcharan Singh and Section 29 of NDPS Act not attracted against the accused. The contention raised by the learned counsel for the accused having weight. The prosecution has failed to connect the accused Gurcharan Singh in the present case as he was nominated in the present case only on the ground that he had sold and supplied the aforesaid intoxicant powder to accused Gurpreet Singh alias Gura and Jagjit Singh alias Jaggi but no material evidence was produced by the prosecution to connect the accused

with each other. PW-2 ASI Balwinder Singh, investigating officer in his cross examination has deposed that as per his investigation, accused Gurcharan Singh is not related to accused Gurpreet Singh and Jagjit Singh nor was having any dealing with them. PW-12 Inspector Kulwinder Kaur in her cross examination has deposed that no separate disclosure statement of Jagjit Singh and Gurpreet Singh was recorded in the present case. No call details was collected in order to connect the accused Gurcharan Singh with co-accused during her investigation. She did not participate any kind of investigation qua the accused Gurcharan Singh. Perusal of testimonies of the above said witnesses clearly shows that in the case in hand, no call details were taken by investigating officer against the accused to ascertain whether all the accused were having any connivance with each other. Even there is no other evidence on record to connect the accused Gurcharan Singh with accused Gurpreet Singh alias Gura and Jagjit Singh alias Jaggi. Hence, prosecution story is highly doubtful qua accused Gurcharan Singh so, the benefit of doubt should be given in favour of the accused Gurcharan Singh. It is cardinal principle of law that the accused cannot be convicted on the basis of surmises and conjectures. Admittedly, no recovery was effected from accused Gurcharan Singh, the benefit of doubt as and when the same arise, however, marginal same may be, is bound to tilt in favour of the accused Gurcharan Singh. Therefore, it stands fully proved that the prosecution has not been able to connect the accused Gurcharan Singh with the commission of offence beyond any reasonable of doubt and as such the accused Gurcharan Singh is liable to be acquitted in the present case.

Further prosecution has also failed to prove the ingredient of Section 29 of NDPS Act against the accused Gurcharan Singh. Resultantly, this Court finds that the charges against accused Gurcharan Singh for the offence under Section 29 of NDPS Act is not proved beyond any shadow of doubt by the prosecution in this case. The case of accused Gurcharan Singh remained unproved by the prosecution beyond any shadow of doubt in the opinion of this Court and he deserves to be acquitted of the charges and as such accused Gurcharan Singh is hereby acquitted from the charges framed against him.

43. In the light of what is discussed above and without elaborating further, it is held that prosecution has failed to prove its case against the accused Gurcharan Singh beyond the shadow of reasonable doubt, as such the accused Gurcharan Singh is hereby acquitted of the offence under Section 29 of NDPS Act by affording him benefit of doubt, whereas prosecution has been able to prove its case against the accused Gurpreet Singh alias Gura and Jagjit Singh alias Jaggi beyond shadow of reasonable doubt. It stood established that 270 grams of intoxicant powder was recovered from the conscious possession of the accused Gurpreet Singh alias Gura and Jagjit Singh alias Jaggi and they were also found in conscious possession of 10 stolen motorcycles knowingly or having reason to believe the same to be stolen property. As per chemical examination report Ex.P16 salt found in the sample sent is "Alprazolam" which is prohibited substance under section 22 of NDPS Act. So offence of possessing prohibited contraband stood established. All ingredients of the offence under section 22

of NDPS Act are complete. Since it is case of commercial quantity, as such both the accused Gurpreet Singh alias Gura and Jagjit Singh alias Jaggi are held guilty for an offence punishable under Section 22 (c) of the Narcotic Drugs and Psychotropic Substances Act, 1985. Both the accused are also held guilty for an offence punishable under Section 411 of IPC. Let, they be heard on the point of quantum of sentence.

Pronounced.

Dated :- 10.02.2026.

Sunny Stenographer-II

(Bishan Saroop)

Judge, Special Court,

Moga (UID No.PB00449).

ORDER OF SENTENCE:

Present :- Mrs. Gunwantjit Manesh, Addl. Public Prosecutor for State
Convict Gurpreet Singh alias Guri in custody represented by
Sh. Narinder Kumar, Advocate, LADC,
Convict Jagjit Singh alias Jaggi in custody represented by
Sh. Onkar Singh Sidhu, Advocate

44. I have heard the convicts on the question of sentence. Convicts have prayed that they are poor persons and saddled with the responsibility of maintaining their respective families. Lenient view may kindly be taken while deciding the case.

45. On the other hand, learned Additional Public Prosecutor for the State opposed the prayer of convicts on the ground that Narcotic Drugs and Psychotropic Substance has assumed alarming proportions in this part of the country accordingly submitted that no case for leniency is made out in their favour.

46. As convicts indulged in trafficking of the narcotics and traders of narcotics are not only enemies of the Nation, but they are destroyers of human race and no leniency can be granted in their case, but keeping in

view the recovery of 270 grams of intoxicant powder containing Alprazolam salt effected from the conscious possession of the convicts Gurpreet Singh alias Gura and Jagjit Singh alias Jaggi falls within the ambit of “Commercial Quantity”. So the contraband in question is Commercial in nature. Thus, keeping in view all the facts and circumstances of this case, gravity of offence and taking a lenient view, the convicts are sentenced to undergo Rigorous Imprisonment as under :-

Sr. No	Name of Convict	Offence	Sentence
1.	Gurpreet Singh alias Gura	22 (c) of NDPS Act	To undergo Rigorous Imprisonment for Ten Years to pay fine of Rs.1,00,000/- (One Lakh) and in default thereof, to further undergo rigorous imprisonment for one year.
2.		411 IPC	To undergo Rigorous Imprisonment for one year to pay fine of Rs.1000/-, in default thereof, to undergo rigorous imprisonment for 15 days.

Sr. No	Name of Convict	Offence	Sentence
1.	Jagjeet Singh alias Jaggi	22 (c) of NDPS Act	To undergo Rigorous Imprisonment for Ten Years to pay fine of Rs.1,00,000/- (One Lakh) and in default thereof, to further undergo rigorous imprisonment for one year.
2.		411 IPC	To undergo Rigorous Imprisonment for one year to pay fine of Rs.1000/-, in default thereof, to undergo rigorous imprisonment for 15 days.

47. Both the sentences shall run concurrently. Period of detention, undergone during investigation or trial be set off from the substantive

sentence awarded to the convicts. Fine not paid by the convicts. Case property be disposed off as per rule after expiry of period of limitation of appeal, revision, if any and subject thereto. Copy of this judgment be supplied to the convict free of costs. File be consigned to the Record Room.

Pronounced.
Dated :- 10.02.2026.
Sunny Stenographer-II

(Bishan Saroop)
Judge, Special Court,
Moga (UID No.PB00449).