

DISTRICT : CHATRA

In the court of Sessions Judge-cum- Special Judge, NDPS Cases, Chatra.

Present: **Shambhu Lal Shaw, Sessions Judge**
-cum Special Judge, NDPS Cases, Chatra.

Dated; Chatra, the 24th day of January, 2026

<u>Ref : NDPS Case No. 34/2022</u> (CNR No. JHCH010008262022) <i>(Arising out of Hunterganj P.S. case No. 150/2021, dated 06.11.2021, U/s 18 of NDPS Act).</i>	
STATE	
Versus	
Rajesh Kumar , aged about 25/27 years, S/o Chandradeo Yadav R/o Village Kashikewal, PS Hunterganj , District Chatra, Jharkhand. Accused Person	
For Prosecution	: Mr. Amit Kr. Srivastava, PP
For Defence	: Mr. S.K Singh , Advocate
Charge U/s 18 of the NDPS Act	
<u>JUDGMENT</u>	

1. Above named **Sole accused-Rajesh Kumar** stood tried for offence punishable **U/s 18 of the NDPS Act**.

2. (a) FIR was lodged by ASI Sunil Kumar Dubey that on 05.11.2021 at about 21.00 hours, Officer-in-Charge of Gidhour PS came to Hunterganj PS and submitted application for helping hand for raid in connection with Gidhour PS Case No. 55/2021.

On 06.11.2021 at about 01.30 night, Gidhour police party and Hunterganj Police party started for raid.

They reached house of present accused at village Kashikewal.

At about 06.00 morning, he was asked to open the door but he did not.

There was secret information regarding opium stock & trade and also that earlier he was in jail in Punjab in connection with opium case.

After due efforts, present accused opened the door.

Three persons were found present.

From the Chhaja (overhang) of one room, opium were found.

C.O Mithlesh Kumar was informed. He came at 06.50 morning with DD Kit and weighing machine. He issued sec. 50 NDPS Act notice to accused. Present accused consented for search.

DD Kit report was positive. Both **opium** packets were seized. They were **250 gram + 245 gram = 495 Gram**. They were seized under seizure list. Copy was made over to accused under acknowledgment signature.

(b) Upon this present named **FIR** of **Hunterganj P.S. case No. 150/2021, dated 06.11.2021, U/s 18 of NDPS Act** was lodged.

(c) After investigation, police submitted **Charge Sheet No. 16/2022 dated 25.01.2022**, against present **sole accused Rajesh Kumar**.

Accordingly Cognizance was taken vide order dated 11.01.2022.

It became present NDPS Case No. 34/2022.

(d) Charge was framed on 20.05.2022 against above named **sole accused Rajesh Kumar** for offence punishable **U/s 18 of the NDPS Act** to which he pleaded not guilty and claimed to be tried.

3. Now question remains whether prosecution has been able to prove its case beyond the shadow of all reasonable doubts ?

FINDINGS

4. (a) Prosecution examined the following P/ws.:-

No	Name	Remarks
1	Loknath Paswan	Police- members of raiding party-
2	Satyendra Kumar	
3	Pappu Kumar	Police- members of raiding party- seizure list witness
4	Arvind Kumar	Police- member of raiding party-
5	Arvind Kumar Sao	Police- member of raiding party-witness of seizure list
6	Sunil Kumar Dubey	Informant
7	Mithlesh Kumar	C.O.
8	Ramashray Sharma	I.O.
9	Ranjit Kumar Singh	Produced seized material in court.

(b) The prosecution **exhibited** following documents :-

No.	Document	Proved by
1	Signature of PW 3 Pappu Kumar over seizure list	PW -3
1/1	Signature of PW 5 Arvind Kumar Sao over seizure list	PW -5
1/2	Entire seizure list	PW- 6
1/3	Signature of PW 7 Mithlesh Kumar over seizure list	PW -7
2	Written application upon which FIR was lodged	PW -6
3	Application U/s 42(ii) of NDPS Act by informant to CO	PW- 7
4	Notice U/s 50 of NDPS Act	PW -7
5	Application for sealing & sampling of seized opium	PW -8
6 to 6/4	Five paper slips issued by learned CJM, Chatra, after sealing & sampling	PW -8
7	Forwarding application for sending sealed sample to SFSL	PW -8
8	Forwarding application to produce seized material in court	PW -9
9	Malkhana Challan	PW -9
10	SFSL report No. 3730/2021 dated 06.01.2022	u/s 293 Cr.p.c.

SFSL Report reads as follows :-

1. Morphine and other alkaloids of Opium were detected in the contents of the polythene dibba Marked A and B, described above. Therefore, it is concluded that each of the polythene dibba Marked A and B contained Opium.

(c) Prosecution produced following **Material Exhibits :-**

Mat. Ext. no.	Material	Produced by
I	Seized article in sealed condition over which MR No. 28/2021 is mentioned	PW-9
II	Remaining first Opium strip – 200 gram- in transparent plastic- (50 gram was brought out as sample)	
III	Remaining second Opium strip – 195 gram- in transparent plastic- (50 gram was brought out as sample)	

(d) Defence examined the following D/ws.

No.	Name	Remarks
1	Rajdeo Yadav	Uncle in village relation
2	Subhash Kumar Yadav	Neighbour villager

(e) The Defence did not exhibit any documentary evidence.

5. Statement of Sole accused-Rajesh Kumar was recorded on 08/09/2025.

He denied materials & evidences on record and claimed to be innocent & has falsely been implicated in this case.

6. Now the evidences.

(a) PW 1 – Loknath Paswan – Police- member of raiding party – deposed in support interalia that on 06.11.2022, Police party

seized 495 gram opium in two plastic from Chhaja of house of present accused. Hunterganj PS Officer-in-Charge and C.O came. Seizure list was prepared. Accused was arrested. He claimed to identify the accused.

In cross he deposed interalia that he went out for raid at 06.00 morning. He can not state regarding intervening villages. He is not a signatory over seizure list. No family inmate was present at fateful time. Seized articles was weighed at Police station by Officer-in-Charge. He can not state about neighbouring house owners.

(b) **PW 2 – Satyendra Kumar – Police- member of raiding party -** deposed in support that on 06.11.2022, Police party seized 495 gram opium in two plastic from Chhaja of house of present accused. Hunterganj Officer-in-Charge and C.O came. Seizure list was prepared. Accused was arrested.

In cross he deposed that he went out for raid at 01.30 night by SUMO vehicle No. JH-13D-4800. This witness is driver of same.

In this case, police party first proceeded for raid at mid-night.
Later, after raid in the the house of present accused, O/C of Huntergunj PS, CO, Huntergunj and another police team again proceeded to place of occurrence.
So there may be difference in time for departure for raid in the evidences of raiding party members.

Disputed Kashikewal village is 06 KM from Police station. Godowar village and another village intervene. He did not enter into disputed house. Nothing was seized in his presence.

(c) **PW 3 – Pappu Kumar – Member of raiding party of Gidhour PS and seizure list witness** – deposed interalia that on 05.1.2021, he went to Hunterganj Police station with Gidhour police team.

As per prosecution case, first Gidhour PS reached Hunterganj PS for raid in connection with their one case.
Later both PS police team went for raid.
Next morning, this police team raided house of present accused.
So this variance regarding date is as per prosecution case.

They conducted raid in the house of present accused at village Kashikewal and seized 495 gram opium in two plastic under proper seizure list. This witness is a signatory there. It is **Exhibit-1**. Accused was arrested. He claimed to identify present accused.

In cross deposed that he can not state boundary, khata no., plot no. etc. of disputed house. He did not see title document of same. Seizure list was prepared at 06.50 hours. Article was not weighed by this witness but was done in his presence. Seizure list does not bear signature of family inmates. At about 08.00 hours, police party returned to Police station. Nothing incriminating was recovered from physical possession of present accused.

(d) **PW 4 – Arvind Kumar – Police - member of raiding party of Hunterganj PS** – deposed interalia that on 06.11.2021, police party seized 495 gam opium in two plastic from the house of present accused at village Kashikewal. Officer-in-Charge and C.O came and under took weighing and seizure. Seizure list was prepared. Accused was arrested. He claimed to identify the present accused.

In cross he deposed that he can not state boundary of the house. They reached at about 06.00 morning. He can not state Khata, plot of disputed house nor can state number of rooms. Nothing incriminating was seized from physical possession of accused.

(e) **PW 5 – Arvind Kumar Sao – Police- member of raiding party of Gidhour PS and another seizure list witness** – deposed interalia that on 05.11.2021, Gidhour police went to Hunterganj police station. Both police team conducted raid in the house of present accused at village Kashikewal and seized 495 gram opium in two plastic. Seizure list was prepared. His signature is there as witness. It is **Exhibit-1/1**. Accused was arrested. He claimed to identify the accused.

In cross he deposed interalia that police party went for raid at 01.30 night. Raid was conducted at 06.00 morning. He can not state the number of houses of Kashikewal village nor neighbouring house owners. This witness put signature at about 06.45 hours. Nothing incriminating was seized from physical possession of present accused.

(f) **PW 6 – Sunil Kumar Dubey – Informant** – deposed interalia that on 05.11.2021 at about 21.00 hours, Gidhour police team came for raid in connection with Gidhour PS Case No. 55/2021.

Both police party conducted raid. They reached house of present accused at village Kashikewal. Present accused was not opening the door. From secret source he could know that this accused deals

with opium and earlier was arrested by Punjab police. After due efforts, this accused opened the door. Three persons were found there. 250 gram + 245 gram = 495 gram Opium was found in two plastic.

Officer-in-Charge and C.O Mithlesh Kumar were informed. They came with DD Kit etc.

C.O Mithlesh Kumar issued notice U/s 50 of NDPS Act. DD kit report was positive. It was seized under proper seizure list. Seizure list is under his pen and signature. It is **Exhibit-1/2**. A copy of seizure list was made over to present accused. He prepared self statement. It is **Exhibit-2**. He claimed to identify present accused.

In cross he deposed that he can not state boundary, number of doors, widows etc of the house, but house is of West facing. He did not go through its title document. Seizure list was prepared at about 08-09 morning. Opium were in two transparent plastic. But room where from seizure was made, was 10'X15' and bed room. He can not remember about photography and videography.

(g) **PW 7 – Mithlesh Kumar- C.O** – also deposed in support that on 05.11.2021, there was information by Hunterganj Officer-in-Charge regarding recovery of opium from house of present accused. This witness was requested to come. He went there with weighing machine, DD Kit etc. Sec.50 of NDPS notice was issued by him. DD Kit report was positive. 250 gram + 245 Gram = 495 gram opium were seized. His signature over seizure list is **Ext-1/3**. Copy

of same was made over to present accused. Information U/s 42(ii) of NDPS Act was given to this witness by informant. It is **Exhibit-3**. Copy of notice U/s 50 of NDPS Act is **Exhibit-4**. He claimed to identify present accused.

In cross he deposed interalia that he was informed at 06.00 morning. He can not state about neighbouring houses. Seizure list was prepared about 10.00 hours. This witness did not enter into house. Seized article were sealed at the police station.

(h) **PW 8 - Ramashray Sharma- I.O** - deposed interalia that he recorded re-statement of informant and statements of witnesses. He visited place of occurrence. It is house of present accused at village Kashikewal, situated at 08 KM South-west of PS.

After entrance, there is a Baramda. Its boundary :-

North - PCC raod	South- Parti land of Suryadeo Yadav
East - Khapril house of Udan Yadav	West- House of Dineshwar Yadav

He took step for sealing and sampling. Application of same is **Exhibit-5**. After sealing & sampling, paper slips were issued by learned CJM, Chatra. They are **Exhibits- 6 to 6/4**. Sealed sample was sent to SFSL. Forwarding of same is **Exhibit-7**. He obtained SFSL report and lastly charge-sheeted this accused.

In cross he deposed interalia that without receiving SFSL report, he submitted charge sheet. He did not verify title document of this house. No photography or videography took place. He did not record statement of any independent witness. Seized article was

obtained by this witness on 06.11.2021 and sample was sent to SFSL on 20.12.2021.

(i) **PW 9 – Ranjit Kumar Singh- Produced the seized material in court –** He proved forwarding application and Malkhana Challan to produce Material exhibits of Hunterganj PS Case No. 150/2021 in court as **Exhibit-8 & 9.**

First material Exhibit is in sealed condition. Over same MR No. 28.2021 is mentioned. On other side - Hunterganj PS Case No. 150/2021 dated 06.11.2021, U/s 18 of NDPS Act is mentioned. It is Marked **Material Exhibit -I.**

On the direction of court, seal was opened. It contains two sealed Material exhibit.

Over first material, a slip was pasted containing mention-

Court of CJM, Chatra, Hunterganj PS Case No. 150/2021, dated 06.11.2021, U/s 18 of NDPS Act- containing semi solid opium, about 200 gram, Mark A1- initial of CJM.

On the other side- Hunterganj PS Cse No. 150/2021 – is written.

It is Paper slip issued after sealing & sampling by Ld. CJM

At the direction of court, seal was broken.

It contains opium strip - in a transparent plastic- over which a paper is pasted, containing mention -

Hunterganj PS Case No. 150/2021, dated 06.11.2021, U/s 18 of NDPS Act- semi solid opium, about 250 gram, Mark A-signature of witness, accused and seizing officer-

It is Paper slip issued at the time of seizure by seizure officer.

This Opium strip is Marked **Material Exhibit-II.**

Similarly over second material exhibit, a paper is found pasted containing _

**Court of CJM, Chatra, Hunterganj PS Case No. 150/2021, dated 06.11.2021, U/s 18 of NDPS Act-semi solid opium, about 195 gram, Mark B1 - initial of CJM.
On the other side- Hunterganj PS Cse No. 150/2021 – is written.**

It is Paper slip issued after sealing & sampling by Ld. CJM

On the direction of court, seal was broken.

It contains opium strip in a transparent plastic, over which a paper is found pasted containing mention :-

Hunterganj PS Case No. 150/2021, dated 06.11.2021, U/s 18 of NDPS Act- semi solid opium, about 245 gram, Mark B- signature of witness, accused and seizing officer-

It is Paper slip issued at the time of seizure by seizure officer.

This second Opium strip is marked **Material Exhibit-III**.

In cross he deposed that he has no personal knowledge about this case and seized materials. There is no signature of accused, witness and seizing officer over Material exhibits but they are well available over paper strips pasted. Both plastic will be weighing 20 gram.

(j)

DW1 – Rajkumar Thakur –village uncle	DW 2 – Subhash Kumar Yadav – Neighbour
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deposed interalia that present accused lives in a house, in front of Devi Mandap in village Kashikewal.

He works as driver in Bihar. Police never raided house of present accused.

DW 1 - in cross deposed that on 06.11.2021, this witness was in his house. as such he can not state whether police raided house of present accused or not. Parents of present accused lives in this residential house.

DW 2 – in cross deposed that this witness lives in village Uraili – ½ KM from the disputed village. He came to depose at the instance of present accused. On 06.11.2021 he was in village Uraili. So he can not state whether police raided house of present accused or not.

7. (a) Ld. defence counsel first argued that there is no sufficient independent and seizure list witness support. It is fatal to prosecution.

Ld. PP argued to the contrary.

It is matter of record.

It is a case of narcotic trafficking- an organized crime. It is also mentioned in FIR that this accused was in jail in connection with same narcotic case in Punjab. So he is a habitual, veteran and national level narcotic trader.

Rarely common people will like to involve into matter like this, risking life and property of self and relations.

Further nowadays people are quite self centric. They don't want to involve into matters of others, particularly in police and court matters. This argument of defence is thus not tenable.

(b) Ld. defence counsel next argued that secret information was not informed to superior official. It is fatal to the prosecution case.

Ld. PP argued to the contrary.

Informant as PW-6 did depose that upon finding opium, CO was informed. Such information in writing is ext-3. He came and issued notice u/s 50 NDPS Act. Copy of same is ext-4. Under his instruction, seizure took place. His signature over seizure list is ext-1/3. This CO as PW-7 also reiterated the same.

Further information to other superior police official is not requirement of law.

Thus this defence argument is not at all tenable.

(c) Ld. defence counsels further argued that sec. 50 of NDPS Act was not properly complied with. It is fatal to the prosecution case.

Ld. APP argued to the contrary.

It is not a case of search & seizure from physical possession. Rather recovery was made from Chhajja- Overhang of house of present accused.

Sec. 50 of NDPS Act does not apply in such case.

Yet CO as PW—7- did issue notice u/s 50 of NDPS Act. Copy of same is ext-4.

This is no argument.

(d) Ld. defence counsels next argued that there was unnecessary delay in sampling, sealing and sending sealed sample to SFSL for scientific investigating. It is fatal to prosecution case.

Ld. APP argued to the contrary.

Date of recovery is 06/11/2021.

It was produced before this court in sealed condition along with accused next day on 07/11/2021.

Step for sampling & sealing was done after 1½ months - on 15/12/2021.

Sealed sample was sent to SFSL on 20/12/2021 - 05 days thereafter.

Certainly there was delay.

But paucity of police force in remote area police stations is no secret.

It can't be expected that one police personnel will remain engaged in one case only till it reaches logical conclusion.

He is just a multi-tasker.

Further sealing and sampling took place under due process of law.

Paper slips pasted over material exhibits make every thing clear.

After seizure, next day seized article was produced before this court in sealed condition.

In the wake of all, this delay in sealing, sampling and sending sealed sample to SFSL is just ignored.

This argument is again not tenable.

(e) Ld. defence counsel further argued that there is no proof that impugned house belongs to present accused. Prosecution could not connect present accused with seized opium.

Ld. PP argued to the contrary.

First of all, in rural Jharkhand, seldom we find any name plate or house/holding no. displayed outside of a house. Villagers know each other's house.

Secondly, this accused was arrested red handed with opium in impugned house. His signature is also found with acknowledgment endorsement over seizure list.

Now this question is redundant whether impugned house belongs to present accused or not.

This argument has no force.

(f) Ld. defence counsel lastly argued that there are several anomalies in prosecution case and contradictions in the testimonies of PWs.

Ld. PP argued to the contrary.

Barring a few wears and tears, the police witnesses fully supported the occurrence of recovery of **495 gram opium** in two plastic from house of present accused and this accused was caught red handed.

8. (a) In this case Sole accused-Rajesh Kumar has been facing trial for offence punishable u/s 18 of NDPS Act- for intermediate quantity.

(b) The police witnesses sufficiently deposed recovery of **495 gram opium** in two plastic from house of present accused and this accused was caught red handed.

(c) Sampling and sealing were done with due permission and process before Ld. Court.

(d) Sealed samples were duly sent to SFSL.

Positive SFSL report is there as ext-10.

(e) Remaining seized materials were duly produced in court with paper seals pasted, both at the time of seizure and after sealing & sampling by Ld. CJM.

(f) **Sized opium is 495 gram opium - thus intermediate quantity.**

9. (a) Under the premises, the Prosecution appears to have successfully proved its case **u/s 18 of NDPS Act- for intermediate quantity** against **Sole accused - Rajesh Kumar-** beyond the shadow of all reasonable doubt.

(b) He is as such held, found and adjudicated to be **guilty** and accordingly stands **convicted** for offence punishable **u/s 18 of NDPS Act- for intermediate quantity.**

(c) He is on bail.

His bail bond stands canceled and is taken into judicial custody to be produced on **31/01/2026** for hearing on the point of sentence.

(Dictated and corrected by me)

Sd/-

(Shambhu Lal Shaw)
Sessions Judge - cum
Special Judge, NDPS Act,
Chatra JO code-JH00410
24/01/2026

sd/-

(Shambhu Lal Shaw)
Sessions Judge- cum
Special Judge, NDPS Act,
Chatra JO code-JH00410
24/01/2026

Dated; Chatra, the 24th day of January - 2026

02/02/2026

HEARING ON SENTENCE

10. (a) Heard both sides on the point of sentence.

Ld Advocate for the convict argued that he is a family man with no previous conviction. Lastly prayed for lenient view.

Ld. PP I/C prayed for maximum sentence alleging seriousness of offence and quantum of recovery of poppy straw.

Heard, perused, considered.

(b) Report from Chatra Jail and SP, Chatra, were called for regarding previous conviction/s and criminal antecedents of above sole convict.

Chatra Jail through letter no..**228 dated 28/01/2026** reported that this convict has no previous conviction.

O/C, Huntergunj PS reported vide memo no. **198 dated 08/01/2026** reported that this accused has no previous conviction but one pending criminal antecedent- vide (Haryana) Sirsa City PS case no.. **424/2025 dated 22/08/2025, u/s 17(c), 29 of NDPS Act.**

CIS shows that there is another like nature **Huntergunj PS case no. 21/2024, corresponding to NDPS case no.. 43/2025, u/s 18(b), 27(a), 28, 29 of NDPS Act, pending before ASJ-III, Chatra. (Print out annexed).**

(c) Award of suitable sentence depends upon a variety of considerations. Determination of appropriate punishment after the conviction of an offender is often a question of great difficulty and always requires careful consideration. Law prescribes nature and limit of the punishment permissible for an offence, but court has to determine in each case a sentence suited to the offence and offender. Maximum punishment prescribed by law for any offence is intended for the gravest of its kind and it is rarely necessary in practice to go up to the

maximum. Measure of punishment in any particular instance depends upon a variety of considerations such as motive for crime, its gravity, character of the offender, his age, antecedents and other extenuating or aggravating circumstances, such as sudden temptation, previous convictions, and so forth, which have all to be carefully weighted by the court in passing the sentence.

(d) There is no previous conviction but **TWO other like nature criminal antecedents and in Sirsa, Haryana and in Chatra, Jharkhand.**

So he is a national level narcotic trafficker.

(e) He claimed to be a family man and is middle aged persons.

(f) Seizure is **495 gram opium - intermediate quantity.**

11. (a) Considering all above, Sole convict - Rajesh Kumar- is sentenced to :-

Sec. of NDPS Act	R.I. of	Fine of Rs.	i.d. RI of
18 - Intermediate quantity	09 years	90,000/- only	1 year

(b) Period undergone be set off.

Issue conviction warrants accordingly.

(c) He is made aware that he is entitled of free legal aid through DLSA, Chatra.

(d) A free copy of this judgment be supplied to sole convict.

Dictated and corrected by me.

**(Shambhu Lal Shaw)
Sessions Judge - cum
Special Judge, NDPS Act,
Chatra JO code-JH00410
02/02/2026**

**(Shambhu Lal Shaw)
Sessions Judge- cum
Special Judge, NDPS Act,
Chatra JO code-JH00410
02/02/2026**

Dated; _____ Chatra, the 02nd day of February 2026