

**IN THE COURT OF HARJINDER KAUR, PCS, JUDICIAL
MAGISTRATE IST CLASS, HOSHIARPUR (UID No.PB0 502)**

CIS Regd. No. CHA-85/2025
CNR No. PBHO0300-1930-2025
Instituted on: 24.03.2025
Decided on: 16.04.2026

State

Vs

Sunil @ Sheeli son of Baldev Singh, resident of Near Water Tenk,
Parjapat, Mohalla Ketha, PS Dasuya, District Hoshiarpur.

-----Accused

F.I.R No: 249 dated 01.08.2024
U/s 52-A of Prison Act,
P.S. City, Hoshiarpur

Present: Sh. Rajneesh Salaria, Ld. APP for the State
Accused Sunil @ Sheeli on bail in this case but in custody
in some other case (Produced) represented by Sh. Karan
Luthra, Assistant LADC.

JUDGMENT;

Accused Sunil @ Sheeli has been forwarded to face trial by
SHO, police station City, for alleged commission of offences punishable
under section 52-A of Prison Act.

2. Prosecution version as unfolds from final report under
section 193 Bharatiya Nagarik Suraksha Sanhita, 2023 is that on
01.08.2024 SI Kulwinder Singh alongwith other police officials were
present at police station and Head Munshi ASI Harmeet Singh produced
letter No. 7667/ASW dated 30.07.2024 from Sukhwinder Ram, Assistant
Superintendent Central, Hoshiarpur alongwith one keypad mobile phone
marka Nokia color black without SIM along with Battery, one battery
marka ERD and one open tabacco for taking action with the contents that
on 30.07.2024 prisoner Sunil @ Shelli went for his hearing regarding FIR

No. 158 dated 04.08.2023 under section 363, 366-A IPC, PS Dasuya, District Hoshiarpur in the Hon'ble Session Court Hoshiarpur. After hearing when he came back to jail then jail warden Jai Gopal conducted search of the prisoner during search one keypad mobile phone make Nokia color black without SIM along-with battery and one battery make ERD which was wrapped in his parna was recovered from him and one open pocket of tobacco was also found in his shoe of right foot which is in violation of jail rules. Finding a prima facie case against the accused rukka was sent for registration of FIR. FIR was registered. Accused was arrested. Statement of witnesses were recorded. Investigation was conducted and after completion of investigation challan was presented against the accused Under section 52A of Prison Act.

3. Thereafter, copies of challan were supplied to the accused free of costs under section 230 BNSS. On finding a prima facie case against the accused, he was charge sheeted under section 52A of Prison Act after explaining the contents of the same in simple Punjabi language to accused, to which the accused did not plead guilty and claimed to be tried by the Court.

4. In order to bring home the guilt of accused under above said section, prosecution examined ASI Harmeet Singh as PW1, Warder Jai Gopal as PW2, Sukhwinder Ram, Assistant Superintendent Central Jail as PW3, ASI Gurbachan Singh as PW4, Gurmeet Lal, Clerk as PW5 and ASI Narinder Singh as PW6. However, prosecution failed to adduce its

entire evidence despite availing sufficient opportunities and accordingly remaining prosecution evidence was closed by order.

5. On conclusion of prosecution evidence, statement of accused was recorded under section 313 Cr.P.C. wherein all the incriminating circumstances were put to him to which he pleaded that he is innocent and he has not committed any offence as mentioned in the FIR. He is falsely implicated by the prosecution agencies in the present case. Accused has not opted to lead evidence in his defence.

6. On the strength of evidence stated above learned APP has submitted that it is duly proved on record that accused was found in possession of one keypad mobile phone make Nokia color black without SIM along-with battery and one battery make ERD and one open pocket of tobacco. Accordingly, he has submitted that charges against the accused under section 52A of Prison Act who had been identified in court have been duly proved and he may be convicted for commission of offence under section 52A of Prison Act.

7. On the other hand learned defence counsel has contended that there are material contradictions in the testimony of PW1 to PW6. It has been submitted that no independent witness has been examined. It is further submitted that the only witnesses examined by prosecution are interested witnesses being responsible for prosecution of accused and accused cannot be held liable on basis of testimony of such interested witnesses. Accordingly, acquittal of the accused has been prayed for.

8. I have heard and thoughtfully considered the submissions made by learned APP and defence counsel and carefully perused the judicial file, where from, following point arise for determination;

I. Whether mobile, battery and open packet of Tobacco was recovered from the accused as an inmate of jail and offence under section 52A of Prison Act with which accused has been charged is made out or not?

9. The present case was set into motion on the basis of application moved by Assistant Superintendent Sukhwinder Ram Central Jail, Hoshiarpur as PW3 stating therein that on dated 30.07.2024 he was posted at Central Jail Hoshiarpur. On that day accused prisoner Sunil @ Sheeli went for his hearing regarding FIR No. 158 dated 04.08.2023 in the Hon'ble Court Hoshiarpur. After hearing when he came back to jail then jail warden Jagpal conducted search of the above said Sunil @ Sheeli during search one keypad mobile phone make Nokia colour black along-with battery without SIM and one battery make ERD which was wrapped in his parna was recovered from him and one open packet of tobacco was also found in his shoe of right foot. Warden Jagpal hand over the same to him for further necessary action for which he issued a letter bearing No. 7667/ASW dated 30.07.2024 the same is Ex.PW3/A to SHO, PS City Hoshiarpur on which he identify his signature on it at Point A. During the investigation of the present case police got identified the above said mobile phone along with battery and one battery make ERD and one packet open packet of tobacco vide identification memo Ex.PW3/B. He identify his signature on said memo. Police recorded his

statement regarding this. Accused produced through VC and he identify him.

10. The prosecution also examined ASI Harmeet Singh as PW1. He deposed that on dated 30.07.2024 he was posted PS City Hoshiarpur. On that day he received a letter which was issued by Assistant Central Superintendent Jail Sukhwinder Ram bearing No. 7667-ASW dated 30.07.2024 along-with one keypad mobile phone make Nokia colour black without SIM along-with battery and one battery make ERD and one open packet of tobacco (jarda) for further necessary action. He produced the above said recovered case property along-with letter to SI Kulwinder Singh for further necessary action and SI Kulwinder Singh took into possession the above said recovered case property and letter vide memo Ex.P1. The same was witness by him and ASI Gurbachan Singh. He also brought the summoned record i.e. Register No. 19 in which he entered the entry regarding case property in the present case Sr. No. 1281 Ex.P2. IO recorded his statement regarding this.

11. Thereafter, prosecution examined Warder Jai Gopal as PW2. He deposed that on dated 30.07.2024 he was posted at Central Jail Hoshiarpur. On that day accused prisoner Sunil @ Sheeli went for his hearing regarding FIR No. 158 dated 04.08.2023 in the Hon'ble Court Hoshiarpur. After hearing when he came back to jail he conducted search of the above said Sunil @ Sheeli during search one keypad mobile phone make Nokia colour black along-with battery without SIM and one battery make ERD which was wrapped in his parna was recovered from him and one open packet of tobacco was also found in his shoe of right foot. He

hand over the same to Assistant Superintendent Jail Sukhwinder Ram for further necessary action. Police recorded his statement regarding this. Accused produced through VC and he identify him.

12. Thereafter, prosecution examined ASI Gurbachan Singh as PW4. He deposed that on 01.08.2024 he was posted at PS City Hoshiarpur. On that day he was member party of the investigation team ASI Kulwinder Singh. On that day MHC, ASI Harmeet Singh handed over one letter bearing No. 7667/ASW dated 30.07.2024 which was issued by Sukhwinder Ram Assistant Central Jail, Hoshiarpur along-with one keypad mobile phone make Nokia along-with battery without SIM, and one battery make ERD and one open packet of tobacco which was recovered from accused Sunil to IO Kulwinder Singh for further necessary action which was taken into police possession vide memo Ex.P1 which was witness by him and ASI Harmeet singh. On the basis of which IO prepared his police proceeding i.e. ruqa and the same was handed over to MHC for registration of FIR on the basis of which FIR Ex.PW4/A was registered by ASI Nanak Singh, endorsement of the same is Ex.PW4/B. During investigation he along with IO visited the Central Jail and got identified the above said recovered articles from Sukhwinder Ram, Assistant Superintendent Central Jail, Hoshiarpur vide memo Ex.PW3/B. The said memo was witness by him and Sukhwinder Ram. IO prepared site plan regarding this IO recorded his statement.

13. After him, prosecution examined Gurmeet Lal Clerk as PW5. He deposed that he has brought the summoned record i.e. pertaining to posting order of jail official and accused Sunil Kumar. The

same is Ex.PW5/A. The duty roster is Ex.PW5/B. The same is true and correct as per their record.

14. Thereafter, prosecution examined ASI Narinder Singh as PW6. He deposed that he has brought the register No. 19 and as per the record 02.08.2024 one keypad mobile phone make Nokia along-with open battery, which he deposited in the police malkhana and made the entry in register No. 19 in the serial No. 1281 and copy of the same is Ex.PW6/A.

15. Merely, because the witnesses examined in the present case are official witnesses, their testimony cannot be discarded. No material has been brought on record to show that witnesses were inimical towards the accused or they had some other reason to falsely implicate the accused. Similarly, non examination of independent witness also does not effect the prosecution case. It has been observed by Hon'ble Supreme Court in ***Appabhai and Anr. vs. State of Gujrat*** AIR 1988 SC 696 that prosecution case cannot be thrown out only on the ground of non joining of independent witness as civilized people are generally insensitive when a crime is committed even in their presence. The court, therefore, instead of doubting the prosecution case for want of independent witness must consider the broad spectrum of the prosecution version and then search for the nugget of truth with due regard to probability if any, suggested by the accused.

16. The testimony of PW1 to PW6 is credible and reliable and proves beyond shadow of all doubts that accused was found in possession of one keypad mobile phone make Nokia color black without SIM along-

with battery and one battery make ERD and one open packet of tobacco while he was in custody as inmate in the jail. All the prosecution witnesses have deposed in fairly satisfactory manner on all the material aspects of the case. They have given a satisfactory count with regard to the sequence of events. No ill-Will, animosity or bias is made out against the accused by the police officials and no reason is made out for false implication. The ingredients of offence punishable under section 52A of Prison Act thus stands fulfilled. Hence, accused Sunil @ Sheeli is convicted for commission of offence under section 52A of the Prison Act.

The convict be taken in custody and be produced at 2:30 PM for hearing on quantum of sentence.

Pronounced in the open court:
Dated:16.04.2026
Daizy, stenographer-II
(Directly Dictated)

(Harjinder Kaur),
Judicial Magistrate Ist Class,
Hoshiarpur (UID NO. PB 0502)

Quantum of Sentence

Present: Sh. Rajneesh Salaria, Ld. APP for the State
Convict Sunil @ Sheeli in custody represented by Sh. Karan Luthra, Assistant LADC.
Sunil @ Sheeli has been convicted for commission of offence punishable under section 52A of the Act. However learned counsel for the convict prays that lenient view be taken against the convict. On the other hand, learned APP has submitted that offence committed by accused involves serious social implications. He has submitted that maximum punishment may be awarded to convict. I have considered the respective submissions made by learned counsel for convict and learned APP for the State in the matter of sentence. Keeping in view the facts and circumstances of the case and the gravity of the offence, I am of the considered view that convict is not entitled for any leniency or benefit of probation. As such, the convict is sentenced to undergo Rigorous imprisonment for a period of six months. Period of detention already undergone by the convict in this case, if any, shall be set off against substantive sentence of imprisonment. The bail bonds and surety bonds if any of convict stand discharged. The case file be consigned to the Record Room, Hoshiarpur.

Pronounced in the open court:
Dated:16.04.2026
Daizy, stenographer-II
(Directly Dictated)

(Harjinder Kaur),
Judicial Magistrate Ist Class,
Hoshiarpur (UID NO. PB 0502)

State Vs. Sunil @ Sheeli

Present: Sh. Rajneesh Salaria, Ld. APP for the State
Accused Sunil @ Sheeli on bail in this case but in custody
in some other case (Produced) represented by Sh. Karan
Luthra, Assistant LADC.

The defence evidence is closed by order. Accused produced
by the jail authorities. Statement of accused Under section 313 CrPC has
been recorded. Arguments heard. Vide my separate detailed judgment of
even date, the accused has been convicted and sentenced. File be
consigned to record room.

Pronounced in the open court:
Dated:16.04.2026
Daizy, stenographer-II
(Directly Dictated)

(Harjinder Kaur),
Judicial Magistrate Ist Class,
Hoshiarpur (UID NO. PB 0502)