

**IN THE COURT OF DR ABIRA BASU, SPECIAL JUDGE,
SARKAGHAT, DISTRICT MANDI, H.P., CAMP AT JOGINDER
NAGAR.**

FORM 'A'

Present:	Dr. Abira Basu, Special Judge.
Date of Judgment:	15.07.2026
Cri. Case No.:	110/21/2018
CIS Reg. No:	145/2018
CNR No.:	HPMA 1600001352018
Case Type:	NDPS Act.
Case Year:	2018
FIR No.	66/2018, dated 29.03.2018.
Under Sections:	20 & 29 of the ND&PS Act.

COMPLAINANT	State of Himachal Pradesh.
REPRESENTED BY:	Sh. Rajeev Sharma, Ld. P.P.
ACCUSED No.1	Peter, son of Sh. Vikram, resident of village Approach road, P.O. Shanan, Tehsil Joginder Nagar, District Mandi, HP. <i>(Proceeding against accused Peter abated vide order dated 19.06.2026).</i>
ACCUSED No.2	Shrawan Kumar, son of Sh. Vinod Kumar, R/o VPO Mohan Ghati Badehar, Tehsil Joginder Nagar, District Mandi, HP.
REPRESENTED BY:	Sh. D.K. Chauhan, Ld. Advocate.

FORM 'B'

Date of Offence	29.03.2018
Date of FIR	29.03.2018
Date of Charge sheet	29.06.2018
Date of Framing of Charges	27.04.2019
Date of commencement of evidence	11.12.2023
Date on which Judgment is reserved	13.05.2026/15.07.2026
Date of the Judgment	15.07.2026
Date of the sentencing order, if any	- NA -

Police challan for the offence punishable under Sections 20 & 29 of the ND & PS Act, in case 66/2018 dated 29.03.2018 of Police Station Joginder Nagar, District Mandi, H.P.

JUDGMENT

The prosecution has filed the present challan against the accused persons for the commission of offences punishable under Sections 20 & 29 of the Narcotic Drugs and Psychotropic Substance Act, 1985 (hereinafter referred to as 'the NDPS Act' for short)".

2. The case of the prosecution, in nutshell, is that on 29.03.2018, when IO/HC Manvir Singh alongwith HC Kamlesh Kumar, Ct. Diwan Chand, HHG Praveen Kumar were in Govt. vehicle having No.HP33C-1821 driven by HHC Dalip Singh for patrolling, then at Jogindernagar-Mandi road, near at Galu, at around 04:10 PM, accused persons were coming on foot and on seeing the police, accused persons got perplexed and accused Peter was carrying a polythene bag in his hand. Accused Peter was asked about the contents of the bag but could not give satisfactory answered. The police got suspicious and waited for independent witnesses.

3. When Gaurav PW1 came in his Bolero having No.HP29A-9662 he was associated as independent witnesses and Gaurav alongwith HHG Praveen and Ct. Diwan searched the bag, in which, black coloured substance of Cylindrical shape was found, which turned out to be charas and weighed 104 grams.

The contraband was again packed in the same fashion and sealed in the cloth parcel by embossing 4 seals of JNR-S and the seal impression was also taken in the plain cloth and NCB-I in triplicate form, which is Ext.P16/PW7 and the sample seal is Ex.P2/PW1.

4. The rukka Ext.P8/PW4 was prepared. The IO prepared the spot map Ext.P21/PW10. Potographs Ext.P22/PW10 to Ex.P26/PW10 were clicked by the IO. The statements of witnesses were recorded as per their version. The statements are Ext.P27/PW10 to Ext.P32/PW10. Thereafter, the accused persons were arrested and information of their arrest were given to their relatives, vide memo Ext.P33/PW10. The rukka Ext.P8/PW4, which was sent by the IO was given to SHO for registration of FIR, the endorsement on rukka is Ext.P8/PW4 and FIR is Ext.P9/PW4.

5. Both accused persons were produced before the SHO alongwith sealed cloth parcel and NCB-I form in triplicate, sample seals and relevant documents. The SHO resealed the parcel with 3 seals of JNR-A and filled the column No.9 to 11, which is Ext.P16/PW7 and also embossed seal impression on NCB-I and sample seals on separate cloth which is Ext.P17/PW7. The resealing certificate is Ext.P18/PW7. The SHO thereafter, handed over the sealed parcel alongwith sample seals and relevant documents to HHC Manohar Lal Malkhana Incharge, who has confirmed the fact and he entered the same against Sr. No.762 in the Malkhana register. The extract of which is Ex.P11/PW5.

6. On 31.03.2018, the case property in compliance of section 52-A was produced before the Court. The application is

Ext.P19/PW7 and inventory is Ext.P20/PW7 which was certified by Ld. JMIC and certificate is Ext.P35/PW10 and order is Ext.P36/PW10. The seals used by the Court is ACJM-JNR. The sample seal is Ex.P37/PW10 and the photographs of preparation of inventory are Ext.P38/PW10 to Ext.P44/PW10. The special report Ext.P4/PW2 was handed over to HHC Balwant Singh and sent to SDPO Sarkaghat and the case property was deposited back to Malkhana Incharge.

7. On 01.04.2018, the case property was sent for chemical examination through HHC Balwant Singh, vide RC No. 58/ 18, which is Ext.P3/PW2 and after depositing the same, he handed over the receipt to the Malkhana Incharge. Later on 17.05.2018, HHC Balwant brought the result Ext.P12/PW5 alongwith the case property having additional seals of FSL-II. The relevant entry to this effect in the register was made.

8. After completion of the investigation, the challan for the offence punishable under Sections 20 & 29 of the NDPS Act was prepared and presented against the accused persons before the Court.

9. The Court took cognizance and the accused persons were summoned. After compliance of sec 207 of Cr.PC, and hearing both the parties, the accused persons were charged for the commission of offence punishable under Sections 20 & 29 of the ND & PS Act, to which they pleaded not guilty and claimed trial.

10. The prosecution in order to prove its case against the accused persons has examined as many as 10 witnesses.

11. After the completion of the prosecution evidence, the statement of accused persons under Section 313, Cr.P.C. were recorded. The defence of the accused persons was simplicitor denial that they have been falsely implicated. The accused persons did not wish to lead evidence in their defence.

12. I have heard Shri Rajeev Sharma, learned P.P for the State and Shri D.K. Chauhan, Learned defence counsel and have gone through the relevant material on record carefully.

13. Shri Rajeev Sharma, Learned PP for the State, submitted that the prosecution has succeeded in proving its case against the accused persons beyond reasonable doubt. Thus, he prayed that the accused persons be convicted and be dealt with in accordance with law.

14. Sh. D.K. Chauhan, Learned counsel for the accused persons, submitted that the accused persons have falsely been implicated in the present case and there are major contradictions in the statements of the prosecution witnesses, which go to the root of the prosecution case and rendered the entire prosecution story highly doubtful and prayed that the accused persons be acquitted for the offence in question.

15. I have given a considerable thought to the rival submissions and have gone through the records carefully.

16. The following points arise for determination in this case:-

1. Whether the prosecution has succeeded in proving its case beyond reasonable doubt that on 29.03.2018, at about 4:10 a.m., at place Galu, Tehsil Joginder Nagar, accused Shrawan Kumar was having knowledge and abetted the carrying of 104 grams of Charas a crime which is punishable u/s 20 read with sec 29 of the NDPS Act, as alleged?
2. Final Order

17. For the reasons recorded hereinafter, while discussing the points for determination, my findings on the aforesaid points are as under :-

Point No.1 :	No
Final order :	Accused Shrawan Kumar is acquitted for the offence in question as per the operative part of the judgment.

GROUND FOR DECISION

POINT No.1.

18. The prosecution in order to prove this claim has examined 10 witnesses in all. PW-1 is Gaurav Kumar. He stated that he is 10+2 and he run a Restaurant at Gallu. It is the incident of evening time, when he was going from Galu to Joginder Nagar side in his Bolero bearing No.HP29A-9662 and when he had gone about 200 meters from Galu, then police party signaled to him stop and he stopped his vehicle and police was present with their government vehicle. Police party had caught two persons on the spot, who are not present in the court today and to whom he can identify. Peter and another accused was present with police party on the spot. Police had shown him a polythene, which was opened and Charas was found inside which was a black substance and

which was found to be Charas. He does not remember that what was the weight of recovered contraband but it was weighed by the police by electronic balance which was manner and was sealed in a cloth parcel. Police told him that the above said Charas was recovered from the two above said accused persons.

19. He further stated that thereafter, the recovered Charas was seized vide seizure memo Ext.P1-/PW1 in his presence and he put his signatures on memo Ext.P-1/PW1 as witness, which are in red circle A. The Police had clicked the photograph Mark A-1 in his presence on the spot, in which he is visible in red circle X. Both the accused persons are visible in photograph Mark A-1 in red circle Y. He did not remember the date of occurrence and the names of police officials on the spot. He did not remember that what else proceeding was carried out on the spot.

20. This witness was declared hostile and during cross examination by Id PP, he stated that he does not remember that it is the occurrence of 29.03.2018. He failed to remember the names of the police officials that Constable Diwan Chand, HHG Praveen Kumar were present on the spot. Self stated that there were police officials present there. He did not remember the names of police officials present on the spot. HC Kamlesh Kumar, HHC Daleep Singh, Ct. Diwan Chand and HHG Praveen Kumar alongwith government vehicle no. HP33C-1821. Self stated that police officials alongwith government vehicle were present there. He admitted that accused persons Peter and Sarwan Kumar were present on the spot with the police. He denied that Peter was

holding a polythene in his right hand on the spot. He denied that the polythene was in the hand of Peter, self stated that the polythene which was opened and shown to him was having black substance stick type and which was found to be Charas. The seals were not embossed on NCB 1 in triplicate Form in his presence.

21. He does not remember that the Charas was found to be 104 grams after weighing. He admitted that seizure memo was signed by him or by the police officials. He does not remember that seal was handed over to HHG Praveen Kumar after its use. Police had clicked photographs on the spot. The spot map was not scribed in his presence. He admitted that his statement was recorded by the police. He admitted that Peter was known to him prior to this occurrence as he used to meet him now and then in Joginder Nagar bazaar. He denied that Peter is his customer and now and then keep visiting in his Restaurant due to which he is deposing falsely just to save accused persons. He stated that he had seen cloth parcel Ext.MO-01 which bears his signatures in red circle A as witness.

22. During cross examination by Id defence counsel, he admitted that the shops of Gram Panchayat Ropa Sh. Rakesh Kumar and Ex-president Ram Lal were situated. The alleged place of occurrence is situated at National Highway. He admitted that the vehicle passes through this National Highway after 15 to 30 second. All the proceedings were completed before he reached on the spot. He had not seen the alleged contraband was in the possession of the accused persons. The photographs are stage

managed. He had signed all the papers at Police Station Joginder Nagar at the instance of police. He had signed Ext.P-1/PW1 without going through its contents. He has no personal knowledge regarding the case. He stated that he does not know the accused persons.

23. PW2 is Balwant Singh. He stated that on 31.05.2018, he remained associated in police investigating when he was posted as HHC General Duty at PS Joginder Nagar. On 31.03.2018, he had taken the special report Ext.P4/PW2 to deposit at SDPO Sarkaghat as per the instruction of his superior. On 01.04.2018, HHC Mohan Lal handed over to him one cloth parcel bearing 4 seals of JNR-S and 3 seals of KNR-A and 3 seals of ACJM-JNR for the chemical examination at SFSL Junga vide RC No.58/18 Ext.P3/PW2 and the receiving of SFSL which is in red circle A over it was handed over to the Malkhana Incharge at his return. Case property safe till it remained in his custody. During cross examination by Id defence counsel, he denied that no special report was carried by him neither he handed over same to the office of SDPO Sarkahat. He denied that no case property was carried by him to SFSL Junga. He admitted that he does not personally identify the person to whom he had handed over the case property at SFSL Junga.

24. PW3 is HHC Roshan Lal. He stated that in the year 2018, he was posted as MC at PS Jognder Nagar. He entered rapats Ext.P5/PW3 to Ext.P7/PW3. He had brought the original record with him in the Court as per which the supra documents are

genuine are true. During cross examination by Ld. Defence counsel, he denied that during the above said period, he was not available in police station Joginder Nagar. He denied that he had not entered the above said rapats. He denied that the rapats were later on stage managed on the instance of IO. He admitted that he handed over the supra documents.

25. PW4 is HC Rajneesh Kumar. He stated that on 29.03.2018, Inspector/SHO Sandeep Sharma produced rukka Ext.P8/PW4 to him at Police Station, on which, FIR Ext.P9/PW4 was registered by him and in that connection he issued certificate Ext.P10/PW4 which bears his designation and signatures in red circle A. During cross examination by Ld. defence counsel, he denied that neither he received any rukka nor he registered the FIR. He denied that the computer was in his possession and supervision. He denied that he issued wrong and false certificate.

26. PW5 is HHC Mohan Lal. He stated that on 31.05.2018, he remained associated in the police investigation when he was posted as Malkhana Incharge at PS Jognder Nagar. On 29.03.2018, ASI Jai Chand handed over one cloth parcel sealed with 4 seals of JNR-S and 3 seals of JNR-A alongwith sample seal and NCB-I triplicate form, stated to be containing 104 gram charas was deposited in malkhana and same was entered at Sr. 762 in malkhana register. The extract of which Exct.P11/PW5. The said entry is in red circle A over it. On 31.03.2018, the supra case property was handed over to HC Manvir for the compliance of u/s 52 A of NDPS Act. The relevant entry is in red circle B over it. On

the same day, HC Manvir deposited the case property in malkhana after the compliance of u/s 52 A of NDPS Act. The cloth parcel was having additional 3 seals of ACJM-JNR. The relevant entry is in red circle C over it. On 01.04.2018, the supra case property was sent to SFSL Junga for chemical examination through HHC Balvant Singh, vide RC No. 58/18 Ext.P3/PW2.

27. After depositing the same at SFSL, he handed over receipt of SFSL to him on his return which is in red circle A over Ext.P3/PW2. The relevant entry is in red circle D over it. On 17.05.2018, HHC Baldev Singh brought result Ext.P12/PW5 alongwith case property. The cloth parcel was having additional seals of FSL-II. The relevant entry is in red circle E. He deposited the case property in malkhana and handed over the result Ext.P12/PWS to IO. He have brought the original record with him today as per which supra documents are true and genuine. The case property remained safe till it remained in his custody. During cross examination by Id defence counsel, he admitted that he had not mentioned the time when the said alleged case property was deposited with him by the IO. The said case property was directly deposited with him. He denied that no case property was deposited with him.

28. He denied that he had not mentioned the time when he handed over the case property i.e. cloth parcel sent to SFSL Junga. He admitted that he had not mentioned the time when he sent the application for compliance of u/s 52 of NDPS Act. He denied that neither the any case property is deposited with him nor

he sent it to SFSL Junga in the same manner. He denied that he had not received any report from SFSL Junga. He denied that he had not sent any application u/s 52 of NDPS Act for compliance. He denied that all these documents are false and fabricated one prepared in connivance with his senior officer.

29. PW6 is ASI Sandeep. He stated that in the year 2018, he was posted as Reader to SDPO Sarkaghat. HHC Balvant Singh produced one special report Ext. P4/PW2 to SDPO Chander Paul Singh who endorsed Ext. P13/PW6 on special report which is in his hand and bears his signatures in red circle A. He identify his writing and signatures as he had worked with him. Thereafter, SDPO handed over special report to him on 31.03.2018 at about 5:00 PM for further necessary action. He entered the same at Sr. No.6 in special report register, extract of which is Ext.P14/PW6, which bears his signatures in red circle A and B. He put his endorsement Ext.P15/PW6 on special report which in his hand and bears his signatures in red circle A and B. He stated that he had brought the original record with him in the Court as per which the supra documents are true and genuine.

30. During cross examination by Ld. Defence counsel, he denied that no special report was handed over to the SDPO Sarkaghat. The said report was handed over to him by SDPO Sarkaghat at about 5:00 PM. He denied that SDPO Sarkaghat has not handed over any special report to him. SDPO Chander Paul is posted at SDPO Ghumarwin now.

31. PW7 is Jai Chand (Retd. SI). He stated that in the year 2018, he remained posted as ASI/SHO at PS Joginder Nagar, District Mandi, HP. On 29.03.2018, Rukka Ext.P8/PW4 was brought in the police station by Ct. Diwan Chand, NO. 154 for registration of FIR. On the basis of rukka, FIR No.66 of 2018. Ext.P9/PW4 was registered in the police station, which bears his signatures in red circle A. Endorsement of FIR was made in red circle A on rukka Ext.P8/PW4, which also bears his signatures, and thereafter, case file was sent to IO. On the same day, at around 07:30 PM, HC Manvir Singh No. 922 had produced before him a sealed cloth parcel sealed with 4 seals of impression JNR-S alongwith NCB-I in triplicate form, sample seals and relevant documents for resealing proceedings. The parcel was stated to be containing 104 grams charas.

32. The seals on the parcel were intact and were tally with the sample seal. He carried resealing proceedings and resealed the cloth parcel with 3 seals of impression JNR-A. He filled column No.9 to 11 of NCB form in triplicate Ext.P16/PW7, embossed sample seal impression JNR-A on NCB-I triplicate and sample seal JNR-A was taken on pieces of cloth Ext.P17/PW7, which bears his signatures in red circle A. NCB-I form in triplicate Ext.P16/PW7. After resealing proceeding, he had handed over the sealed cloth parcel alongwith sample seal and relevant documents to HHC Mohan Lal, Incharge Malkhana. Accused persons Peter and Sarwan Kumar were also produced before him by HC Manvir Singh, after formal inquiry from accused persons. He handed over

them to IO alongwith case file for further proceedings. Application u/s 52-A of NDPS Ext.P19/PW7 and inventory form Ext.P20/PW7 were prepared by him and handed over to the IO for getting conducting inventory correctness proceeding, which bears his signatures in red circle A.

33. During cross examination by Id defence counsel, he stated that he received the rukka at 5:40 PM and it took about 20 minutes for registration of FIR. He denied that neither he received the rukka nor, he was present on that day as SHO PS Joginder Nagar. He does not know how the Diwan Chand came to the PS Joginder Nagar from alleged spot. He denied that no police official or contraband were produced before him on that day. He denied that NCB form in triplicate is filled with same pen and same hand writing. He denied that the accused persons were not presented before him on the same day. He admitted that in entry at Sr. No. 762 in the Malkhana register Ext.P11/PW5, the time has not been mentioned when the alleged contraband was depositing. He denied that the malkhana register remained in the supervision of concerned SHO. He denied that resealing certificate Ext.P18/PW7 is also incorrect. He denied that he had not prepared any inventory of proceeding. He denied that all the proceeding/record is manipulated one.

34. PW8 is HC Diwan Chand. He stated that on 29.03.2018, he alongwith HC Manveer Singh, HHG Praveen Kumar, HC Kamlesh Kumar left police station in Govt. Vehicle HP33C-1821 driven by HHC Dalip Singh for patrolling and they

were present on Joginder Nagar-Mandi road near Galu. At 4:10 PM, two persons came from Galu side by foot and on seeing police party, they perplexed and turn about and tried to run away. Police party took control of them. A person was having polythene/carry bag in his right hand and on asking his name, he told his name Peter alongwith his address and another person told his name Sarwan Kumar alongwith his address.

35. Accused were asked the reason to run away and also ask about the contents of carry bag, but they cannot given satisfactory answer. Thereafter, police party kept waiting for independent witness on the spot. After 2-3 minutes, a Bolero came from Joginder Nagar side, again stated the Bolero came from Galu side to Joginder Nagar and was signaled to stop and the vehicle was stopped. The driver of the Bolero told his name Gaurav alongwith his address and he was apprised about the situation on the spot and he was kept as independent witness and himself and HHG Parveen was also kept as witness. The carry bag which was in the hand of Peter was searched.

36. In which, black colour substance of Cylindrical shape, which was found to be charas on the base of smelling of experience of IO and was found to be 104 grams charas after weighing the same by means of electronic balance of IO kit. The contraband/charas was again packed in the same fashion and was sealed in a cloth parcel by embossing four seals of JNR-S and the seals were also taken on plain cloth and on NCB-I triplicate form and above said case property was seized vide memo Ext.P1/PW1

in his presence. The sample seal is Ext.P2/PW1, which also bears his signatures in red circle B. Both these documents also bears the signatures of HHG Praveen Kumar, independent witness Gaurav Kumar and both the accused had put their signatures on these documents.

37. IO had scribed a rukka Ext.P8/PW4 and had handed over to him and same was handed over to MHC at police station Joginder Nagar. MHC had handed over the case file to him and he had handed over the same to IO Manveer Singh on the spot at Galu. He stated that he had seen cloth parcel Ex.MO-01, which bears his signatures in red circle B as witness. During cross examination by Id defence counsel, he stated that they left the police station at about 3:09 PM. They went directly to Galu. He was seating behind the driver. They checked the vehicle but he does not remember how many vehicles were checked. He could say how many challan were done by IO.

38. Although, he was present on the spot. The alleged spot is National Highway. National Highway and vehicles were regularly coming and going from the alleged place. He cannot say the adjacent to the alleged place, the previous Pradhan Ram Lal and then Pradhan, the shops and resident is situated. There are shops and houses at alleged place Galu. The naka was laid down for 400 meters away from Galu. He admitted that the alleged photographs are adjacent to the Galu. He cannot say the alleged witness Gaurav is accused under NDPS cases and was in Jail from last 6 months. The personal search of accused persons was

taken at Galu at about 7:45 PM. Only mobile phones and 440/- were recovered from the accused persons.

39. The photographs of the spot were taken by HC Manveer. The photographs were taken from his mobile. The rukka was prepared within one hour. He came to the police station Joginder Nagar by taking the lift. He does not remember the number of said vehicle in which, he came to the police station. The vehicle was alto. He stated that he has not remembering the name of driver. When he reached at PS Joginder Nagar, the rapat of arrival and departure was entered. The vehicle shown in the photograph mark D-1 is of the police. He cannot say whether the search of IO kit or police vehicle was given to the witness as well as accused. There is no photographs of stitching the parcel doing any proceeding on the alleged spot. All the proceedings were written by the IO by sitting in the vehicle. He denied that the independent witness Gaurav is a stock witness. He denied that no contraband were recovered from the accused persons. He denied that neither he was present on the spot nor any proceeding were conducted on the spot.

40. PW9 is HHG Praveen Kumar. He stated that in the year 2018, he was posted as Constable General Duty at PS Joginder Nagar. On 29.03.2018, he alongwith HC Manveer Singh, Ct. Diwan Chand, HC Kamlesh Kumar left police station in Govt. Vehicle HP33C-1821 driven by HHC Dalip Singh for patrolling and we were present on Joginder Nagar-Mandi road near Galu. At 4:10 PM, two persons came from Galu side by foot and on seeing

police party, they perplexed and turn about and tried to run away.

Police party took control of them. A person was having polythene/carry bag in his right hand and on asking his name, he told his name Peter alongwith his address and another person told his name Sarwan Kumar alongwith his address. He identified accused Peter present in the Court and another accused was not present.

41. Accused were asked the reason to run away and also ask about the contents of carry bag, but they cannot given satisfactory answer. Thereafter, police party kept waiting for independent witness on the spot. After 2-3 minutes, a Bolero No.HP29-A-9662 came from Mandi to Joginder Nagar side and was signaled to stop and the vehicle was stopped. The driver of the Bolero told his name Gaurav alongwith his address and he was apprised about the situation on the spot and he was kept as independent witness and himself and Ct. Diwan was also kept as witnesses. The carry bag which was in the hand of Peter was searched. In which, black colour substance of Cylindrical shape, which was found to be charas on the base of smelling of experience of IO and was found to be 104 grams charas after weighing the same by means of electronic balance of IO kit.

42. The contraband/charas was again packed in the same fashion and was sealed in a cloth parcel by embossing four seals of JNR-S and the seals were also taken on plain cloth and on NCB-1 triplicate form and above said case property was seized vide memo Ext.P1/PW1 in his presence. The sample seal is

Ext.P2/PW1, which also bears his signatures in red circle C. He does not remember to whom the seal was handed over. Self stated that the Muhar was handed over to him after use. During cross examination by Id defence counsel, he stated that he has not local resident of Joginder Nagar.

43. He stated that he is resident of Dharampur and serving in Home Guard from last 5 years. Self stated that he is serving in Fire Station Joginder Nagar. He does not know witness Gaurav. He saw the place Galu only when the Naka was put by the police. Except this, he had never seen the place Galu. The Fire Station Joginder Nagar is adjacent to the PS Joginder Nagar. He is 10+2 pass. He does not know the witness Gaurav is accused in a case of NDPS Act. He does not know in that case, 3-4 Kg charas was recovered by the police of PS Joginder Nagar from witness Gaurav. He stated that the accused was firstly caught by IO. First of all, IO checked the lifafa. The accused was denying to check the lifafa.

44. Thereafter, the said lifafa was opened by IO. Only he was having Android phone bearing sim No.98821-01722 at that time. He denied that he is not visible in the all photographs. The photographs regarding the weighing of contraband were taken by the police on the alleged spot. He admitted that there is no such type of photograph in the case file. He admitted that the number of the vehicle of Gaurav is not visible in the photographs. The police took 2 to 4 hours to conduct the proceeding on the alleged spot. He admitted that it became dark at about 6:30 PM in month of

March. Only 10-12 vehicles passes through the alleged place of occurrence in 2 to 4 hours, although the place of occurrence is situated at Pathankot-Mandi NH. He admitted that there were several famous tourist places like Brot, Dharamshala, Palampur and Manali etc can be explored/reached Horough alleged place of occurrence. Alleged place of occurrence know the shops of EX-Pradhan Ram Lal and present Pradhan Rakesh at that time were situated at Galu.

45. He does not know what is the occupation of witness Gaurav. He stated that he does not know whether the said vehicle was car, motorcycle, truck or bus. He is not remembering the time when the police party came back to PS Joginder Nagar. He does not know whether search of the IO Kit as well as police vehicle were given to any witness or accused. The police had taken the photographs of all proceedings i.e. recording the statement stitching the cloth parcel etc. He admitted that there is photograph of all the proceeding stated supra. He is not remembering the name of the police official who took the alleged photographs. He does not know whether these photographs were taken by the police official or any other private persons.

46. The witness Gaurav stopped his vehicle on the right side of police vehicle(adjacent to the police vehicle). He had not brought the stamp/Muhar because of the reason the said stamp has been misplaced. He had not lodged any rapat qua this fact stated before. The personal search of the accused persons were taken by IO Manveer and Kamlesh after seizing the contraband.

He admitted that the vehicles were not landing on the alleged spot adjacent to the police vehicle. He admitted that he is residing at Approach road from last 20 years. He admitted that he got his education up to 1 class to 10+2 at GSSS Joginder Nagar.

47. He had been adopted by his grandmother Smt. Dhobi Devi, wd/o Late Sh. Roshan Lal. He denied that he is working as Home Guard under PS Joginder Nagar from last 10-15 years. He denied that he was working as driver of concerned SHO or IO from last 10 years. He denied that no contraband were recovered from the accused persons. He denied that neither he was present on the spot nor any proceeding were conducted on the spot. He denied that all the proceedings were conducted at police station.

48. PW10 is ASI Manveer Singh. He stated that in the year 2018, he was posted as HC/IO at PS Joginder Nagar. On 29.03.2018, he alongwith HC Kamlesh, Ct. Diwan Chand, HHG Praveen Kumar left police station in Govt. Vehicle HP33C-1821 driven by HHC Dalip Singh for patrolling and they were present on Joginder Nagar-Mandi road near Galu. At 4:10 PM, two persons came from Galu side by foot and on seeing police party, they perplexed and turn about and tried to run away. Police party took control of them. A person was having polythene/carry bag in his right hand and on asking his name, he told his name Peter alongwith his address and another person told his name Sarwan Kumar alongwith his address. Accused asked the reason to run away and also ask about the contents of carry bag, but they cannot given satisfactory answer.

49. Thereafter, police party kept waiting for independent witness on the spot. After 2-3 minutes, a Bolero No. HP29-A-9662 came from Mandi to Joginder Nagar side and was signaled to stop and the vehicle was stopped. The driver of the Bolero told his name Gaurav alongwith his address and he was apprised about the situation on the spot and he was kept as independent witness and HHG Praveen and Ct. Diwan was also kept as witnesses. The carry bag which was in the hand of Peter was searched. In which, black colour substance of Cylindrical shape, which was found to be charas on the base of smelling of experience of himself and was found to be 104 grams charas after weighing the same by means of electronic balance of IO kit.

50. The contraband/charas was again packed in the same fashion and was sealed in a cloth parcel by embossing four seals of JNR-S and the seals were also taken on plain cloth and on NCB-I triplicate form Ext.P16/PW7, which bears his signatures in red circle B and column No.1 to 8 were filled by him and above said case property was seized vide memo Ext.P1/PW1. The sample seal Ext.P2/PW1 was prepared. The seal was handed over to HHG Praveen Kumar after use. He had scribed rukka Ext.P8/PW4 and had handed over to Ct. Diwan.

51. He stated that he scribed the spot map Ext.P21/PW10. The photographs Ext. P22/PW10 to Ext. P26/PW10 (OT) were clicked by him. He recorded the statements of witnesses Ext.P27/PW10 to Ext.P32/PW10 as per their version. The accused Sarwan Kumar and Peter were arrested and the information of their arrest

was given to their relatives, vide menos Ex.P33/PW10 and Ext.P34/PW10. He had produced the case property, document and accused persons before ASI/SHO Jai Chand, who had resealed the case property and deposited the same in the malkhana.

52. On 31.03.2018, he had withdrawn the case property from the malkhana for the compliance u/s 52-A of NDPS Act, vide letter Ext.P19/PW7 and Ext.P20/PW7 and the inventory was got conducted by JMFC Joginder Nagar. Judicial Magistrate Ms. Neha Sharma issued certificate Ext.P35/PW10 and order Ext. P36/PW10, both of which bears the signatures in red circle A, which he identify as he remained present during certification of inventory in the Court concerned. The Ld. Court had resealed the parcels with 3 seals of ACJM-JNR and the same seals were also embossed on the plain cloth i.e. sample seal Ex. P37/PW10. He had handed over special report Ext.P4/PW2 to HHC Balvant Singh to hand over the same at SDPO Sarkaghat.

53. After the completion of the investigation, he handed over the case file to Inspector Sanjeev Kumar, who has prepared the challan in the present case and filed the same before the Court.

54. During cross examination by Ld. Defence counsel, he stated that they went about 150 meters before Galu. There are shops and houses at Galu. He does not remember how many vehicles were checked by him at Galu. He does not remember the number of stated that the vehicle number was HP33C-1821. He

had not taken the log book of the said vehicle. They saw the accused coming from 8-10 steps towards us. He does not know witness Gaurav Kumar is accused in case under NDPS Act. The witness Gaurav parked his vehicle about 20-30 meters away from the police party.

55. The photographs were clicked by him from his mobile and developed by some photographer. He does not remember the name of said photographer who developed these photographs. The said photographer is not sited as witnessed by him. He denied that if photographs were taken by mobile, the dates and time and type of mobile may come in mobile phone. He did not call any local witness, self stated that the witness Gaurav came there all of sudden. They did not gave their personal search to any independent witness. The personal search of the accused was not conducted. They did not gave the search of IO Kit as well as of the police vehicle. He took one hour up to prepare the rukka. He does not remember how many vehicles and persons passes through the alleged spot. He took 15-20 minutes to prepare the seizure memo. The vehicles were passing through the alleged spot.

56. He did not try to associate another independent witness except Gaurav. He does not took any photographs except five photographs. He admitted that the witness Praveen is no visible in any photographs which were taken by him. He admitted that the photographs Ex.P25/PW10 is not showing in any earth or road. He admitted that he had not shown the alleged second vehicle in the spot map Ex.P21/PW10. He admitted that he had

not shown in the spot map from where the accused persons run away. He denied that in the month of March, at about 6:00 PM it became dark, self stated that darks became at about 6:30 PM. He does not remember in which vehicle, the Ct. Diwan Chand came to PS Joginder Nagar with rukka.

57. The Ct. Diwan Chand came back about 6:30-7:00 PM. The police party came back alongwith accused at 7:30 PM from the alleged spot and reached police station. The seal was of Pital metal, self stated that he cannot say what material was used in the said seal, but the colour of the seal was golden. He admitted that nothing has been mentioned regarding the IO kit in Ext.P-5. He denied that neither they went to alleged spot nor accused were caught with alleged contraband. He denied that the alleged false case has been lodged at the instance of witness Gaurav. He denied that the statement of the witnesses has been recorded according to his version.

58. He denied that neither any alleged contraband was recovered from the accused persons nor the accused persons were found about 150 meters away from Galu. He admitted that there is no time has been written when the alleged contraband were deposited in malkhana. He denied that false case has been made against the accused persons. He does not know the shops as well as houses of ex-GP Prahdan Ropa Ram Lal and Pradhan Rakesh Kumar at that time are situated at Galu. He denied that Gaurav is their stock witness. He also denied that all the rapats are wrongly prepared in connivance with his superior officer.

59. This is the entire evidence led by the prosecution.

60. ***In this case the packet from which the contraband was recovered had been from the accused Peter and he has died and the proceedings against him stands abated.***

61. This Court has to only see the role of accused Shrawan Kumar under sec 29 of NDPS Act. Section 29 of the NDPS Act details the punishment for abatement and criminal conspiracy relating to drug offenses. It ensures that anyone who assists or conspires in an illicit drug activity is held equally responsible as the primary offender.

62. In the case in hand the independent witnesses PW1 has stated that police had shown him the bag which on opening was found to contain charas. He did say that the other accused Shrawan was also but nothing more. PW9 also claimed that the bag in the hand of Peter was opened and charas was recovered when weighed and was found to be 104 grams. But he never said that the accused Shrawan was also found to have knowledge about the carrying of contraband by the co accused Peter. There is no evidence on record to prove any conspiracy between the accused persons, to attract the provisions of Sec 29 of NDPS Act. Mere presence of the accused persons, at the spot, at the time of the alleged recovery does not prove the conspiracy between the accused persons. Perusal of the record further shows that there is no evidence on record to indicate any conspiracy between the accused persons, to attract the provisions of sec 29 of the NDPS Act. Hence, this issue is decided against the prosecution.

FINAL ORDER.

63. In view of the aforesaid discussions, the prosecution has been unsuccessful in proving the guilt of the accused beyond all reasonable doubts that the accused Shrawan Kumar had been found in conscious and exclusive possession of alleged contraband in question as such the accused is acquitted of the offense punishable under Sections 20 & 29 of the Narcotic Drugs & Psychotropic Substances Act. Bail bonds of the accused stand cancelled and surety discharged. Case property, if any, be disposed of strictly in accordance with law, rules, instructions and directions thereof, after lapse of period in case of appeal, subject to order of the Hon'ble High Court of H.P. The file after due completion be consigned to records.

**Announced and signed in the open Court of this
the 15th day of July, 2026.**

(Dr. Abira Basu)
Special Judge, Sarkaghat,
District Mandi, HP., Camp at JNR.

(Deshraj)

Accused Details:-

Rank of the Accused	Name of Accused	Date of Arrest	Date of release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during the trial for purpose of section 428 Cr.P.C.
1.	Peter	29.03.2018	10.04.2018	(Proceeding against accused Peter abated vide order dated 19.06.2026)			
2.	Shrawan Kumar	29.03.2018	10.04.2018	u/s 20 & 29 of NDP S Act	Acquitted	- NA -	13 days

FORM 'C'

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Sh. Gaurav Kumar	Independent witness
PW2	Sh. Balwant Singh	Police witness
PW3	HHC Roshan Lal	-do-
PW4	HC Rameesh Kumar	-do-
PW5	HHC Mohan Lal	-do-
PW6	ASI Sandeep	-do-
PW7	Jai Chand	-do-
PW8	HC Diwan Chand	-do-
PW9	HHG Praveen Kumar	-do-
PW10	ASI Manveer Singh	-do-

B. Defence witness, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
Nil	Nil	Nil

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
Nil	Nil	Nil

LIST OF PROSECUTION/DEFENCE/ COURT EXHIBITS

A. Prosecution

Sr. No.	Exhibit Number	Description
1.	Ex.P1/PW1	Memo
2.	Ex.P2/PW1	Sample seal
3.	Ex.P3/PW2	Road Certificate
4.	Ex.P4/PW2	Special report
5.	Ex.P5/PW3 Ext.P7/PW3	to Rapats
6.	Ex.P8/PW4	Rukka
7.	Ex.P9/PW4	FIR
8.	Ex.P10/PW4	Certificate
9.	Ex.P11/PW5	Abstract
10.	Ex.P12/PW5	Result
11.	Ex.P13/PW6	Endorsement
12.	Ex.P14/PW6	Abstract
13.	Ex.P15/PW6	Endorsement
14.	Ex.P16/PW7	NCB Form
15.	Ex.P17/PW7	Sample seal
16.	Ex.P18/PW7	Resealing Certificate
17.	Ex.P19/PW7	Application u/s 52-A
18.	Ex.P20/PW7	Inventory Form
19.	Ex.PX-1	GD No.16
20.	Ex.R-2	Rapat No.2
21.	Ex.P21/PW10	Spot Map
22.	Ex.P22/PW10 Ext.P26/PW10	to Photographs
23.	Ex.P27/PW10 Ext.P32/PW10	to Statements of witnesses
24.	Ex.P33/PW10 Ext.P34/PW10	& Arrest information
25.	Ex.P35/PW10	Certificate
26.	Ex.P36/PW10	Order

27	Ext.P37/PW10	Sample Seal
28.	Ex.P38/PW10 Ex.P44/PW10	Inventory photographs
29.	Ex. RX	Rapat No.15

B. Defence:

Sr. No.	Exhibit Number	Description
Nil	Nil	Nil

C. Court Exhibits

Sr. No.	Exhibit Number	Description
Nil	Nil	Nil

D. Material Objects:

Sr. No.	Material Object Number	Description
1.	Ext.MO-01	Cloth Parcel
2.	Ext.MO-02	Polythene Packet
3.	Ext.MO-03	Cannabis

(Dr. Abira Basu)
Special Judge, Sarkaghat,
District Mandi, HP., Camp at JNR.

Particulars of personal and surety bonds furnished by the accused person under Section 437-A Cr.P.C., which are attested and accepted:

Sr. No.	Particulars of Accused	Personal Bond	Particulars of Surety Bond	Surety Bond
1.	Shrawan Kumar, son of Sh. Vinod Kumar, R/o VPO Mohan Ghati Badehar, Tehsil Joginder Nagar, District Mandi, HP.	₹50,000/-	Sandeep Kumar, son of Sh. Sudama Shrawan Kumar, R/o House No.25, Block-4 V.P.O. & Tehsil Joginder Nagar, District Mandi, HP.	₹50,000/-

(Dr. Abira Basu)
Special Judge, Sarkaghat,
District Mandi, HP., Camp at JNR.