

PBFG010029812019



IN THE COURT OF DR. SONIA KINRA,
JUDGE, SPECIAL COURT, FATEHGARH SAHIB

NDPS Case No.100/2019
CNR No. PBFG01-002981-2019
Date of Institution: 16.08.2019
Date of Decision: 04.07.2026

FIR No.12 Dated 16.03.2019
under Section 22/61/85 NDPS Act
Police Station: **Kheri Naudh Singh**

Complainant	State of Punjab
Represented by	Sh. Sumit Malhotra, APP for the State
Accused	1. Jagjot Singh @ Jagga aged about 33 years Profession Labour son of Palwinder Singh resident of village Tallania, Police Station and District Fatehgarh Sahib. 2. Manjot Singh @ Jot aged about 37 years Profession Labour son of Palwinder Singh resident of village Tallania, Police Station and District Fatehgarh Sahib. (On Bail)
Represented by	Sh. Amandeep Bawa, Advocate, counsel for the accused.

Date of Offence	16.03.2019
Date of FIR	16.03.2019
Date of chargesheet	16.08.2019
Date of Framing of Charges	23.09.2019

Date of commencement of evidence	10.10.2019
Date on which judgment is reserved	Nil
Date of the Judgment	04.07.2026
Date of the Sentencing Order, if any	07.07.2026

Accused Details:

Name of the accused	Date of arrest	Date of release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428, Cr.P.C.
Jagjot Singh	16.03.2019	21.11.2019	U/s 22(c)/61/85 NDPS Act	Convicted	As mentioned in judgment/order on quantum of sentence	8-Months and 5 days.
Manjot Singh @ Jot	16.03.2019	08.07.2019	U/s 22(c)/61/85 NDPS Act	Convicted	As mentioned in judgment/order on quantum of sentence	3-Months and 22 days.

JUDGMENT:

Accused **Jagjot Singh and Manjot Singh @ Jot** have been sent up by the Station House Officer Kheri Naudh Singh, District Fatehgarh Sahib to face trial for commission of offence punishable under Section 22 of Narcotic Drugs & Psychotropic Substances Act, 1985

(hereinafter called as 'the NDPS' Act) in the case bearing **FIR No.12 dated 16.03.2019**, registered at **Police Station Kheri Naudh Singh**.

CASE OF THE PROSECUTION

2. The factual matrix as has been revealed by the prosecution in its report under section 173 Cr.P.C is that on 16.03.2019, ASI Supinder Singh along with ASI Amrik Singh, C Manpreet Singh, and PHG Dilpreet Singh were going on a private vehicle from Kheri Naudh Singh towards village Fatehgarh Neoan in connection with search of bad elements. At about 09:00 PM, when they reached Stadium near Gurudwara Sahib, village Raipur Majri, they saw two Hindu gentlemen standing in front of the gate of Stadium and were searching the poly bag. On this, ASI Supinder Singh on the basis of suspicion with the assistance of his police officials stopped the car and with the help of the police officials went near the said persons but both of them in perplexed condition tried to throw the polybag. ASI Supinder Singh caught hold of the said poly bag. On checking, the said polybag was found to contain 17 intoxicant injections of Buprenorphine each of 2 ml. Those injections were having batch no. 3B19001, Manufacturing date 01/2019, Expiry date 12/2021 and said checking also led to recovery of 17 bottles of Phineramine Maleate each of 10 ml and they were having batch no. 0418004, Manufacturing date 10/2018, Expiry date 09/2021. On asking, accused disclosed his name as Jagjot Singh @ Jagga son of Palwinder Singh resident of Tallania, PS and District Fatehgarh Sahib and another accused disclosed his name as Manjot Singh @ Jot son of Palwinder Singh resident of Tallania, PS and

District Fatehgarh Sahib. On asking, both the accused could not produce any license or permit authorizing them to possess the contraband recovered from them. The recovered material was reduced into parcel. The parcel was sealed by him with his seal bearing impression 'SS'. Separate sample chit was prepared. Seal after its use was handed over to ASI Amrik Singh. The case property parcel along with the sample chit was taken into police possession vide recovery memo. The memo was witnessed by ASI Amrik Singh, C-Manpreet Singh and attested by ASI Supinder Singh. Ruqa was drafted and was sent to the police station for registration of the case through PHG Dilpreet Singh. On the basis of it, formal FIR was registered by SI/SHO Gaganpreet Singh. Through ruqa, ASI Supinder Singh requested the SHO for sending some other Investigating Officer at the spot to do further investigation in this case. Then after some time, ASI Jatinderpal Singh arrived at the spot for further Investigation. ASI Supinder Singh handed over the case file, case property parcel, accused and witnesses to ASI Jatinderpal Singh. Memo was prepared to the said effect. The memo was signed by ASI Jatinderpal Singh, witnessed by ASI Amrik Singh, C-Manpreet Singh and attested by ASI Supinder Singh. Report under Section 57 of NDPS Act was sent from the spot. ASI Jatinderpal Singh reached at the spot where ASI Supinder Singh along with police party met ASI Jatinderpal Singh and made him aware about the facts of the present case. Accused Jagjot Singh @ Jagga and his co-accused Manjot Singh @ Jot along with one sealed parcel duly sealed with seal bearing impression 'SS' along with sample seal slip were

produced before him and the same were taken into police possession vide memo along with case file and the same was witnessed by ASI Amrik Singh and C-Manpreet Singh. ASI Jatinderpal Singh also verified about the facts of the present case from the accused, witnesses and after being satisfied, he put his seal bearing impression '**JS**' upon the sealed parcel and also upon sample seal slip. Both the accused persons were arrested vide arrest-cum-intimation memos. they were personally searched vide personal search memos. He prepared site plan. He recorded statements of witnesses.

3. On return to the police station, ASI Jatinderpal Singh produced both the accused, witnesses and case property i.e. one sealed parcel duly sealed with seal bearing impressions '**SS**' and '**JS**' along with sample seal slip before SHO/SI Gaganpreet Singh who verified about the facts of the present case from the accused, witnesses and case property and after being satisfied, he put his seal bearing impression '**GPS**' upon the sealed parcel and also upon sample seal slip. Thereafter, case property was deposited with MHC Sukhwinder Singh by SHO. On 17.03.2019, ASI Jatinderpal Singh took the above said sealed parcel duly sealed with seals bearing impressions '**SS**', '**JS**' and '**GPS**' along with sample seal slip from MHC Sukhwinder Singh and produced the same before the court along with the accused and moved application for conducting inventory proceedings. Representative sealed sample parcels were prepared by the court and sealed with seal bearing impression '**HG**' and the same were also sealed by him in the court with seal bearing impression '**JS**'. Sample seal slip

was also prepared and form no.29 was also prepared. The photograph was also clicked. Hon'ble Court also prepared one bulk parcel and sealed the same with seal bearing impression '**HG**' and was also sealed by him with seal bearing impression '**JS**'.

4. Learned Magistrate ordered to deposit the bulk parcel along with one sample parcel each in judicial malkhana and one sample parcel each with police malkhana for sending the same to FSL Moali. Accused were remanded to judicial custody till 30.03.2019. Being Sunday, case property could not be deposited in judicial malkhana and was deposited by ASI Jatinderpal Singh in police malkhana. On 18.03.2019, one sample parcel of injections and one sample parcel of bottles of Avil were handed over to ASI Jatinderpal Singh for depositing the same in judicial malkhana which were deposited by him in judicial malkhana against receipt and receipt was handed over to MHC. On the same day, MHC Sukhwinder Singh handed over two parcels duly sealed with seals bearing impressions '**HG**' and '**JS**' and form No.29 to SHO who converted them into another parcel and sealed it with his seal bearing impression '**GPS**' and secret code No.004/2019 and handed over the same to MHC for getting it deposited in the office of FSL Mohali. On the same day, MHC handed over the sample parcel to C Shiv Kumar for depositing the same in the office of FSL Mohali after getting the docket issued from the office of SSP Fatehgarh Sahib. C. Shiv Kumar produced the same before SSP Fatehgarh Sahib who converted it into another parcel and appended his seal bearing impression '**JS**' and Unique Code No.023/2019/DPO/FGS

Dated 18.03.2019 and handed over the same to ASI Harpreet Singh who further handed over the same to C. Shiv Kumar for getting it deposited in the office of FSL Mohali. C. Shiv Kumar thereafter deposited the same in the office of FSL Mohali against proper receipt and also handed over the receipt to MHC on return to police station. After receipt of report of FSL and finding the salt as Buprenorphine Hydrochloride in 17 injections and report under Section 173 Cr.P.C was prepared and presented in the court.

5. On presentation of challan, complete copies of challan and other documents as envisaged under Section 207 of Code of Criminal Procedure were supplied to the accused free of costs.

6. After hearing learned Additional Public Prosecutor for the State and learned defence counsel, finding a prima-facie case, my learned predecessor framed the charge against the accused under **Section 22 of the NDPS Act on 23.09.2019**, to which he pleaded not guilty and claimed trial. Consequently, the case was fixed for evidence of the prosecution.

7. In order to substantiate its case, the prosecution has examined as many as **seven witnesses** of which details have been given as below:-

List of Prosecution/Defence/Court Witnesses

A. Prosecution:

Rank	Name	Nature of Evidence (Eye witness, Police witness, Expert Witness, Medical Witness, Panch witness, Other witness)
PW1	ASI Harpreet Singh	Proved UID number on the sample parcel.
PW2	C. Shiv Kumar	Sample Carrier.
PW3	SI Gaganpreet Singh	SHO.
PW4	ASI Supinder	First Investigating Officer.

	Singh	
PW5	ASI Amrik Singh	Recovery witness.
PW6	Retd. SI Jatinderpal Singh	Investigating Officer.
PW7	HC Sukhwinder Singh	MHC.

B. Defence Witnesses, if any:

Nil

C. Court Witness, if any:

Nil

List of Prosecution/Defence/Court Exhibits

A. Prosecution:

Sr. No.	Exhibit Number	Description
1.	Ex.PW1/A	Photocopy of register regarding unique code.
2.	Ex.PW3/A	Ruqa.
3.	Ex.PW3/B	FIR.
4.	Ex.PW3/C	Endorsement on ruqa.
5.	Ex.PW3/D	Sample seal chit.
6.	Ex.P1	Recovery memo of contraband.
7.	Ex.P2	Handing over memo regarding case property.
8.	Ex.P3	Report under Section 57 NDPS Act.
9.	Ex.PW5/A	Site plan.
10.	Ex.PW5/B & Ex.PW5/C	Personal search memos of both accused.
11.	Ex.PW5/D & Ex.PW6/A	Arrest cum intimation memos of both accused.
12.	Ex.PW6/B	Application for inventory.
13.	Ex.PW6/C	Inventory order.
14.	Ex.PW6/D	Sample seal chit.
15.	Ex.PW6/E	Form No.29.
16.	Ex.PW6/F	Photograph of inventory.
17.	Ex.PW6/G	FSL Report.

B. Defence Exhibits:

Nil

C. Court Exhibits:

Nil

D. Material Objects:

Sr. No.	Materiel Object Number	Description
1.	MO1	Representative Sample Parcel.
2.	MO2	Residual sample.

8. After closure of the prosecution evidence, statements of both the accused **under Section 313 of Code of Criminal Procedure** were recorded wherein all the incriminating evidence appearing against them was put to them, to which they denied and pleaded their innocence and false implication. No recovery was affected from them. In their defence evidence, accused have examined **DW1 Rajinder Kaur, their mother.**

9. I have heard Sh. Sumit Malhotra, learned APP for the State and Sh. Amandeep Bawa, Advocate counsel for the accused and have perused through the file carefully.

POINTS FOR DETERMINATION

10. The questions for determination arise as follows:-

1. Whether on 16.03.2019, at about 09:00 PM, in the area in front of gate of stadium of village Raipur Majri, both accused were found in conscious possession of 17 injections of Buprenorphine IP Bupine 2 ml each with batch No.3B 19001 MFG date 1/2019 EXP date 12/2020 without any permit or license?
2. Whether story set up by the prosecution is not plausible?
3. Whether there are material contradictions which goes to the root of the case?
4. Whether non joining of independent witness is fatal to the prosecution version?

5. Whether prosecution has been able to prove its version beyond reasonable doubt?

ARGUMENTS AND DISCUSSION

11. Learned Addl. P.P. for the State has argued that prosecution has fully proved its case beyond shadow of reasonable doubt by leading cogent and convincing evidence in the form of **PW4 ASI Supinder Singh** first Investigating Officer, **PW5 ASI Amrik Singh** recovery witness, **PW6 ASI Jatinderpal Singh** second Investigating Officer. The prosecution has also proved link evidence by examining **PW1 ASI Harpreet Singh** who proved UID number on sample parcel, **PW7 MHC/HC Sukhwinder Singh**, **PW3 SI Gaganpreet Singh**, the then SHO who appended his seal on the case property and deposited the same with MHC and converted the sample parcel into another parcel, **PW2 C Shiv Kumar** sample carrier. Thus, the prosecution has proved recovery of 17 **intoxicant injections of 2 ml each containing salt Buprenorphine** from accused **Jagjot Singh and Manjot Singh @ Jot** on 16.03.2019 and therefore, they are liable to be held guilty and convicted under Section 22(c) of the NDPS Act.

12. Per contra, learned defence counsel has raised the arguments to the effect that the prosecution story is not plausible as no prudent person would stand on the public way and check the contents of the polythene bag. No independent witness was joined at the time of recovery which raise doubt with regard to alleged recovery. There are material contradictions in the statements of the witnesses which goes to the root of the case and are fatal to the prosecution version. Hence, he has prayed for acquittal of both the accused. In support of his arguments, he has placed

reliance upon case law reported as **Amar Chand vs State of Himachal Pradesh 2022 LiveLaw (SC) 1002 and Kamaljit Singh vs State of Punjab 2018 Criminal Court Cases 144 (P&H)**

13. The prosecution version is that on 16.03.2019, ASI Supinder Singh along with ASI Amrik Singh, C Manpreet Singh, and PHG Dilpreet Singh were going on a private vehicle from Kheri Naudh Singh towards village Fatehgarh Neoan in connection with search of bad elements. At about 09:00 PM, when they reached Stadium near Gurudwara Sahib, village Raipur Majri, they saw two Hindu gentlemen standing in front of the gate of Stadium and were searching the poly bag. On this, ASI Supinder Singh on the basis of suspicion with the assistance of his police officials stopped the car and with the help of the police officials went near the said persons but both of them in perplexed condition tried to throw the polybag. ASI Supinder Singh caught hold of the said poly bag. On checking, the said polybag was found to contain 17 intoxicant injections of Buprenorphine each of 2 ml. Those injections were having batch no. 3B19001, Manufacturing date 01/2019, Expiry date 12/2021 and said checking also led to recovery of 17 bottles of Phineramine Maleate each of 10 ml and they were having batch no. 0418004, Manufacturing date 10/2018, Expiry date 09/2021. On asking, accused disclosed his name as Jagjot Singh @ Jagga son of Palwinder Singh resident of Tallania, PS and District Fatehgarh Sahib and another accused disclosed his name as Manjot Singh @ Jot son of Palwinder Singh resident of Tallania, PS and District Fatehgarh Sahib. On asking, both the accused could not produce

any license or permit authorizing them to possess the contraband recovered from them.

14. In order to bring home guilt of the accused, the prosecution has examined **PW6 ASI Jatinderpal Singh Investigating Officer** who has deposed that on 16.03.2019, he was posted at Police Station Kheri Naudh Singh. At about 10.50 pm, he reached at the spot where ASI Supinder Singh along with police party met him and made him aware about the facts of the present case. Accused Jagjot Singh @ Jagga and his co-accused Manjot Singh @ Jot along with one sealed parcel duly sealed with seal bearing impression 'SS' along with sample seal slip were produced before him and the same were taken into police possession vide memo **Ex.P2** along with case file and the same was witnessed by ASI Amrik Singh and C-Manpreet Singh. He also verified about the facts of the present case from the accused, witnesses and after being satisfied, he put his seal bearing impression 'JS' upon the sealed parcel and also upon sample seal slip **Ex.PW3/D**. Both the accused persons were arrested vide arrest-cum-intimation memos **Ex.PW5/D** and **Ex.PW6/A**, they were personally searched vide personal search memos **Ex.PW5/B** and **Ex.PW5/C**. He prepared site plan **Ex.PW5/A**. He recorded statements of witnesses. On return to the police station, he produced both accused, witnesses and case property i.e. one sealed parcel duly sealed with seal bearing impressions 'SS' and 'JS' along with sample seal slip before SHO/SI Gaganpreet Singh who verified about the facts of the present case from the accused, witnesses and case property and after being satisfied, he

put his seal bearing impression '**GPS**' upon the sealed parcel and also upon sample seal slip. Thereafter, case property was deposited with MHC Sukhwinder Singh by SHO. On 17.03.2019, he took the above said sealed parcel duly sealed with seals bearing impressions '**SS**', '**JS**' and '**GPS**' along with sample seal slip from MHC Sukhwinder Singh and produced the same before the court along with the accused and moved application **Ex.P6/B** for conducting inventory proceedings. Representative sealed sample parcels were prepared by the court and sealed with seal bearing impression '**HG**' and the same were also sealed by him in the court with seal bearing impression '**JS**'. Sample seal slip **Ex.PW6/D** was also prepared and form no.29 **Ex.PW6/E** was also prepared. The photograph **Ex.PW6/F** was also clicked. Hon'ble Court also prepared one bulk parcel and sealed the same with seal bearing impression '**HG**' and was also sealed by him with seal bearing impression '**JS**'. He proved representative sample parcel as **MO1**, residual sample as **MO2** duly sealed with seal impression FSL CHEM PB UID no. 029/19 and FSL report as **Ex.PW6/G**.

15. **PW4 ASI Supinder Singh** being First Investigating Officer has deposed that on 16.03.2019, he was posted at Police Station Kheri Naudh Singh. On that day, he along with ASI Amrik Singh and other police officials on a private vehicle in connection with patrolling and checking of suspected persons were going from village Kheri Naudh Singh towards village Fatehgarh Neoun. At about 9.00 am, when the police party reached near Gurudwara Sahib of village Raipur Majri, they

saw that two persons who were having one polythene bag in their hands and were checking the contents of the said polythene bag. On the basis of suspicion, they stopped their car and then he along with police party went near the accused for the purpose of checking them. The accused got perplexed and they on seeing the police party, immediately tried to throw away one polythene bag of black colour. On this, he hurriedly caught the polythene bag from the hands of accused persons apprehended them. The said polythene bag was checked and the same led to recovery of 17 intoxicant injections of Buprenorphine each of 2 ml. Those injections were having batch no. 3B19001, Manufacturing date 01/2019, Expiry date 12/2021 and said checking also led to recovery of 17 bottles of Phineramine Maleate each of 10 ml and they were having batch no. 0418004, Manufacturing date 10/2018, Expiry date 09/2021. On asking, accused disclosed his name as Jagjot Singh @ Jagga son of Palwinder Singh resident of Tallania, PS and District Fatehgarh Sahib and another accused disclosed his name as Manjot Singh @ Jot son of Palwinder Singh resident of Tallania, PS and District Fatehgarh Sahib. On asking, both the accused could not produce any license or permit authorizing them to possess the contraband recovered from them. The recovered material was reduced into parcel. The parcel was sealed by him with his seal bearing impression 'SS'. Separate sample chit **Ex.PW3/D** was prepared. Seal after its use was handed over to ASI Amrik Singh. The case property parcel along with the sample chit was taken into police possession vide recovery memo **Ex.P1**. The memo was witnessed by ASI

Amrik Singh, C-Manpreet Singh and attested by him. Ruqa **Ex.PW3/A** was drafted and was sent to the police station for registration of the case through PHG Dilpreet Singh. On the basis of it, formal FIR **Ex.PW3/B** was registered by SI/SHO Gaganpreet Singh. He identified his signatures on FIR and on endorsement **Ex.PW3/C**. Through ruqa, he requested the SHO for sending some other Investigating Officer at the spot to do further investigation in this case. Then after some time, ASI Jatinderpal Singh arrived at the spot for further Investigation. He handed over the case file, case property parcel, accused and witnesses to ASI Jatinderpal Singh. Memo **Ex.P2** was prepared to the said effect. The memo was signed by ASI Jatinderpal Singh, witnessed by ASI Amrik Singh, C-Manpreet Singh and attested by him. Report **Ex.P3** under Section 57 of NDPS Act was sent by him from the spot. Further Investigation was done by ASI Jatinderpal Singh. He proved representative sample as **MO1** and the bulk parcel as **MO2**.

16. **PW5 ASI Amrik Singh** being recovery witnesses has stated on oath that on 16.03.2019, he along with ASI Sukhwinder Singh, C Manpreet Singh and PHG Dilpreet Singh was posted at PS Kheri Naudh Singh and on that day, they were on a private vehicle and were patrolling in the area of Kheri Naudh Singh towards Fatehgarh Naounan. When they reached near Gurudwara Sahib of village Raipur Majri, at about 9.00pm, two persons were seen standing on the gate of sports stadium. Both the persons were examining black polythene bag held by them

in their hands. Investigating Officer stopped the car on suspicion of some contraband. Then he along with the Investigating Officer and the police party went near the persons for the purpose of checking but both the accused in the present case got afraid on seeing the police party and tried to throw away the polythene bag. Then Investigating Officer ASI Supinder Singh quickly caught hold of the polythene bag from the hand of accused and both the accused persons were apprehended. Investigating Officer checked the polythene bag and same led to recovery of 17 injections of Buprenorphine injection IP Bupine with Batch no.3 B 19001, Manufacturing Date 01/2019 and Exp. Date 12/2020 and 17 bottles of Pheniramine Maleate Injection IP Avil 10 ML with Batch no. 0418004, Manufacturing 10/2018 and Exp Date 09/2021. Whereabouts of the accused were asked. Both the accused disclosed their names as Jagjot Singh @ Jagga son of Palwinder Singh, resident of village Tallania, PS Fatehgarh Sahib and Manjot Singh @ Jot son of Palwinder Singh, resident of village Talanina, PS Fatehgarh Sahib and they were asked to produce any license, permit or bill of possession of the recovered contraband. But both the accused persons could not produce any license, permit or bill authorizing to possess the contraband. The recovered material as stated above was reduced into parcel by putting back 17 injections of

Buprenorphine Injection IP Bupine 2 ML Batch no.3 B 19001, Manufacturing Date 01/2019 and Expiry Date 12/2020 and 17 bottles of Pheniramine Maleate Injection IP Avil 10 ML Batch no. 0418004 Manufacturing 10/2018 and Expiry Date 09/2021 into the same polythene bag and then the polythene bag was put into plastic transparent box. Then the plastic box was put into white cotton pouch and parcel was prepared. Investigating Officer ASI Supinder Singh sealed the parcel with seal bearing impression 'SS'. Investigating Officer prepared sample seal chit **Ex.PW3/D** on which he identified the seal 'SS' and signatures of the Investigating Officer ASI Supinder Singh. Investigating Officer handed over his seal to him. The sample seal chit and the parcel bearing seal impression 'SS' was taken into police custody vide recovery memo **Ex.P1**. He and C Manpreet Singh signed the recovery memo as witnesses. Ruqa **Ex.PW3/A** was typed and was sent through PHG Dilpreet Singh by the Investigating Officer. Investigating Officer requested for sending another Investigating Officer at the spot by mentioning the same in the ruqa. Then after some time, ASI Jatinderpal Singh arrived at the spot. Investigating Officer ASI Supinder Singh handed over the case file, case property and both the accused persons and the witnesses i.e. him and C Manpreet Singh to ASI Jatinderpal Singh through memo **Ex.P2**. Investigating Officer ASI Supinder Singh sent the report under

Section 57 NDPS Act **Ex.P3** from the spot. Investigating Officer ASI Jatinderpal Singh appended his seal '**JS**' on the case property which was already sealed by ASI Supinder Singh with his seal bearing impression '**SS**'. Investigating Officer ASI Jatinderpal Singh put his seal impression on the sample seal chit **Ex.PW3/D**. ASI Jatinderpal Singh prepared the rough site plan **Ex.PW5/A**. Then ASI Jatinderpal Singh took personal search of both the accused vide memos **Ex.PW5/B** and **Ex.PW5/C** and arrested both the accused vide memo **Ex.PW5/D**. Memos were witnessed by C Manpreet Singh and himself. Both the accused signed the memos respectively. Investigating Officer recorded his statement at the spot and also statements of other witnesses. He identified proved representative sample as **MO1** and bulk parcel as **MO2**. Then Investigating Officer ASI Jatinderpal Singh produced both the accused, case property and C Manpreet Singh before SI Gaganpreet Singh SHO PS Kheri Naudh Singh. SHO verified the facts from him, C Manpreet Singh and also examined accused and the case property and sample seal chit.

17. **PW3 SI Gaganpreet Singh** being SHO has deposed that on 16.03.2019, he was posted as SHO Police Station Kheri Naudh Singh. On that day, he received ruqa **Ex.PW3/A** sent by ASI Supinder Singh for registration of the case through PHG Dilpreet Singh. On the basis of it, he registered the FIR **Ex.PW3/B** by making endorsement **Ex.PW3/C** on the

ruqa. On that day, ASI Jatinderpal Singh produced both the accused, case property parcel, sample seal chits and witnesses before him. He verified facts of the case and quantum of recovery from the accused and witnesses. After finding the recovery to be genuine, he attested the case property parcels and sample seal chit **Ex.PW3/D** with his seal bearing impression '**GPS**' and with his signatures. He deposited the case property in intact condition with MHC and put the accused behind the bars. His statement was recorded by Investigating Officer ASI Jatinderpal Singh. On 18.03.2019, MHC produced two parcels before him along with sample seal chit and form no.29 for the purpose of affixation of code. Then he affixed the secret code 004/2019 and after putting both the parcels along with sample chit and form no.29 in another cloth bag, he sealed the parcel with his seal '**GPS**' and then he handed over the same to MHC in intact condition for the purpose of getting the same deposited with the office of FSL. His statement was recorded by IO ASI Jatinderpal Singh on 20.03.2019. He proved representative sample parcel as **MO1** and the bulk parcel as **MO2**.

18. **PW1 ASI Harpreet Singh** has proved the link chain of the present case and stated that on 18.03.2019, he was posted in the office of SSP, Fatehgarh Sahib as Crime Clerk. He maintained register of unique number. On 18.03.2019, he was present on his duty then C-Shiv Kumar no.690 FGS posted at PS Kheri Naudh Singh came to him and produced one parcel sealed with secret code no. 004-2019 and sample seal impression of '**GPS**'. Then he produced the same before Sh. Jaswinder

Singh Tiwana DSP (D), Fatehgarh Sahib. The above said parcel was put into a cloth bag by the DSP and prepared new parcel and sealed with the seal impression 'JS' and unique code number 023/19 DPO FGS. After issuance of the unique code number, said parcel was handed over to him by DSP Jaswinder Singh Tiwana, as such he handed over the said parcel to C-Shiv Kumar for depositing it in the FSL Mohali. He produced and proved photocopy of one page of said register as **Ex.PW1/A** in which entries of unique code number were mentioned.

19. **PW2 C. Shiv Kumar being sample carrier** has deposed through his duly sworn affidavit **Ex.PW2/A** to the effect that on 18.03.2019, he was posted at Police Station Kheri Naudh Singh. On that day, MHC Sukhwinder Singh handed over to him one sample parcel bearing secret Code No.004/2019 and seal bearing impression 'GPS' for depositing the same in the office of FSL after getting issued docket from the office of SSP Fatehgarh Sahib. In compliance with the directions of MHC Sukhwinder Singh, he went to the office of SSP Fatehgarh Saib and handed over parcel to ASI Harpreet Singh Crime clerk who presented the same before DSP Jaswinder Singh Tiwana who converted it into a parcel and appended his seal bearing impression 'JS' and UID No. 023/2019/DPO/FGS dated 18.03.2019 and handed back to ASI Harpreet Singh who handed over the same to him and thereafter, he deposited the said parcel in the office of FSL Mohali against proper receipt handed over the receipt to MHC on return to police station. As long as the parcel remained in his possession, neither he tampered with the same nor he

allowed anybody else to tamper with the same.

20. **PW7 HC Sukhwinder Singh being MHC** has deposed through his duly sworn affidavit **Ex.PW7/A** to the effect that on 16.03.2019, he was Incharge of police Station Kheri Naudh Singh. On that day, SHO Gaganpreet Singh handed over to him one parcel containing 17 injections of Buprenorphine and 17 bottles of Pheniramine Maleate sealed with seals bearing impressions '**SS/JS/GPS**' along with sample seal slip which were deposited by him in police malkhana and entry qua the same was made in register No.19. On 18.03.2019, he handed over said parcels along with sample seal slip to ASI Jatinderpal Singh for producing the same in the court of Smt. Himanshi Galhotra learned SDJM Khamanon. On return, the sample parcel and bulk parcel were deposited with him as it was a holiday being Sunday and judicial malkhana was closed. All the parcels were sealed with seals of '**HG**' and '**JS**'. Along with parcels, sample seal slip and form M-29 were also deposited . He deposited the same in police malkhana and made entry in register No.19. On 18.03.2019, he handed over one parcel of injection Buprenorphine and one parcel of bottle of Pheniramine Maleate to ASI Jatinderpal Singh for depositing the same in judicial Malkhana through rode No.32/18.03.2019. On return, the receipt was handed over to him which was appended by him with the record. On the same day, he handed over one sample parcel containing two injections of Buprenorphine and one parcel containing two bottles of Pheniramine Maleate in a sealed condition containing seals '**HG**' and '**JS**' who converted them into a parcel and appended his seal bearing impression

‘GPS’ and secret code No.004/2019. Thereafter, he handed over the same to MHC for sending it to the office of FSL Mohali. He handed over the said parcel to C. Shiv Kumar through rode No.30 dated 18.03.2019 for depositing the same in the office of FSL Mohali after getting issued the docket from the office of SSP Fatehgarh Sahib. On his direction, C Shiv Kumar deposited the sample parcel in sealed condition in the office of FSL Mohali against proper receipt and handed over the receipt to him who appended it with the record. As long as the parcel remained in his possession, neither he tampered with the same nor he allowed anybody else to tamper with the same.

21. Learned defence counsel has vehemently contended that provision under section 50 of the Act has not been complied with and there are contradictions in the statements of material witnesses which goes to the root of the case and are fatal to the prosecution version. In order to appreciate the argument of learned defence counsel for accused, I would like to go through the statements of **PW4 ASI Supinder Singh first Investigating Officer, PW5 ASI Amrik Singh recovery witness and PW6 SI Jatinderpal Singh Investigating Officer. PW4 SI Supinder Singh first Investigating Officer** has stated in his cross examination that they departed from the Police Station towards alleged place of recovery at about 08:20 PM and reached at the place of recovery at about 09:00 PM. They were checking in connection with bad elements and checked one or two persons before apprehension of the accused in this case. No contraband was recovered from the said persons. He did not apprise the

right under Section 50 of NDPS Act to the accused persons before searching and recovering alleged contraband as according to him, he caught hold the hands of accused persons and he had no time to comply with the provision under section 50 of the Act. He remained present at the place of recovery till the police party and the second Investigating Officer remained present at the place of recovery. He used his seal in this case. His seal was made of silver and round in shape. He used his seal for four times. He handed over his seal to ASI Amrik Singh who returned the same to him on the next day in the morning at the police station. Second Investigating Officer also used his seal but he cannot tell whether he kept his seal in his possession. After sending ruqa carrier to the police station and before his arrival at the spot, he prepared ruqa, recovery memo, handing over memo, report under Section 57 NDPS Act and sample seal chit. At that time, second Investigating Officer prepared site plan, arrest memo and personal search memo. Said documents were prepared correctly without any addition or alteration later on. Ruqa carrier departed from the spot at about 10:30 PM and arrived back at the spot at about 11:43 PM. Only after his arrival, FIR number of the present case came to their knowledge. After arrival of ruqa carrier, second Investigating Officer recorded statement of ruqa carrier. Electric connection for consumption of printer was obtained from battery of car after affixing the wires with the battery after opening the bonnet of car. He did not take into police possession, CCTV footage of cameras installed outside and inside the stadium. On the other hand, **PW6 SI Jatinderpal Singh Investigating**

Officer has testified in his cross examination that he did not apprise legal right under Section 50 of NDPS Act to the accused persons before conducting their personal search. Personal search memo was prepared at about 11:20 PM. He remained at the spot for 1:45 hours. Till the time, he remained present at the spot, the first Investigating Officer Supinder Singh also remained present at the spot. In the absence of ruqa carrier, he recorded the statements of witnesses i.e. Amrik Singh, Dilpreet Singh and Manpreet Singh. After arrival of ruqa carrier, he handed over FIR to him. He used his seal for four times at the spot. His seal was made of copper and square in shape. He did not hand over his seal to anyone. **PW5 ASI Amrik Singh recovery witness** has deposed in his cross examination that before search of polythene, Investigating Officer had not apprised the accused about his legal right to get his search conducted before Gazetted Officer or Magistrate. Both the Investigating Officers used their seals but he did not remember the metal of seal of first Investigating Officer ASI Supinder Singh. Seal of Investigating Officer SI Jatinderpal Singh was made of copper. Both Investigating Officers used their seal for four times. Second Investigating Officer ASI Supinder Singh did not hand over his seal to any one, rather he remained his seal. Case property was also in custody of Investigating Officer SI Jatinderpal Singh. He returned the seal of first Investigating Officer after case property was deposited with MHC. After sending ruqa carrier to the police station and before his arrival at the spot, Investigating Officer prepared site plan, arrest memo and personal search memo. They remained at the spot for 02:45 hours. Only after

arrival of ruqa carrier, they came to know FIR number of the present case. Laptop and printer belonged to first Investigating Officer Supinder Singh. All typing work was done by Constable Manpreet Singh. There was Sri Gurudwara Sahib situated nearby from where the electric connection was obtained. He did not remember who went to Sri Gurudwara Sahib for obtaining electric connection.

22. Here I would like to discuss about law on section 50 of the NDPS Act. **Hon'ble Constitution Bench in case titled as State of Punjab vs. Baldev Singh 1999 (6) SCC 172** has held that the compliance of section 50 will come into play only in case of personal search of the accused and not of some baggage like a bag, article or container etc. Further, relying upon the above case law of **Baldev Singh**, Hon'ble Supreme Court in case titled as **State of Himachal Pradesh vs. Pawan Kumar, (2005) 4 Supreme Court Cases 350** relied upon by learned **defence counsel** has held that the most appropriate meaning of the word "**person**" appears to be the body of human being as presented to the public view usually with its appropriate coverings, clothing and also footwear. It has also been held that a bag, a brief case or any such article or container, etc. can under no circumstances be treated as body of a human being. Further, in case titled as **Rajesh Dhiman vs. The state of Himachal Pradesh Criminal appeal no.1032 of 2013, decided on 26.10.2020, (FB)**, the Hon'ble Supreme Court while placing reliance upon the case of **Pawan Kumar** supra has held that the safeguards for search of a person would not extend to his bag or other article being carried by him. In the

said case, it was further held that in the light of facts of that case, as the Narcotics were discovered from a bag pack, there was no need to comply with provision of Section 50 of the Act. In **State of Punjab v. Baljinder Singh & Anr. Criminal appeal no. 1565-66 of 2019 @ out of the SLP (Crl.) Nos. 5659-5660/2019, decided on 15.10.2019**, the Hon'ble Supreme Court has held that as regards applicability of the requirement under section 50 of the Act is/e concerned, it is well settled that the mandate of section 50 of the Act is confined to "personal search" and not to search of a vehicle or a container or premises". Similar view has been taken by the Hon'ble Apex Court in **Than Kunwar vs. State of Haryana Criminal appeal no.2172 of 2011, decided on 02.03.2020**.

23. It is the prosecution version that on 16.03.2019, ASI Supinder Singh along with police party were going on a private vehicle from village Kheri Naudh Singh towards village Fatehgarh Neona in connection with search of bad elements. At about 09:00 PM, when they reached near Gurudwara Sahib of village Raipur Majri, they saw that two Hindu gentlemen standing in front of the gate of the Stadium and were searching the poly bag. ASI Supinder Singh on the basis of suspicion with the help of his police officials stopped their car and then he along with their police party went near the said persons and both of them in perplexed condition tried to throw away the poly bag. However, ASI Supinder Singh caught hold the said poly bag which was found to contain 17 intoxicant injections and 17 bottles. Section 50 of the NDPS Act comes into play when authorized official suspects that the person apprehended has, prohibited

contraband in his 'person' by apprising the said person or suspect of his right to get his search conducted in the presence of a Gazetted Officer or a Magistrate. In the present case, as stated above, there was no opportunity to the First Investigating Officer for making the offer to the accused persons under Section 50 of the NDPS Act. The first Investigating Officer apprehended the poly bag containing 17 intoxicant injections of Buprenorphine and 17 bottles of Phenaramine Maleate when it was being thrown away by the accused persons. Therefore, there is no attraction of provision of Section 50 of the Act in the present set of facts and circumstances.

24. Further, from the cross examination of **PW4 ASI Supinder Singh first Investigating Officer**, **PW5 ASI Amrik Singh recovery witness** and **PW6 SI Jatinderpal Singh Investigating Officer**, it has come out that they are in consonance with each other on material aspects. However, they vary only on minor points which is very natural in the witnesses when they are examined after a long period. It is universal truth that the human memory fades with time. The fact that recovery was affected on 16.03.2019 and **PW4 ASI Supinder Singh first Investigating Officer** was examined on 19.12.2021, **PW5 ASI Amrik Singh recovery witness** on 02.04.2026 and **PW6 SI Jatinderpal Singh Investigating Officer** on 10.11.2025 i.e. after a long period of recovery. After such a long gap, such minor discrepancies are bound to occur in truthful witnesses and witnesses are not be expected to depose in a parrot like manner. Rather it is otherwise, if the witnesses depose in a parrot like manner, it is pointer

towards the fact that they have testified in a tutored manner.

25. Further, the fact that the prosecution has proved the chain of custody of the case property by examining prosecution witnesses cannot be ignored. **PW4 ASI Supinder Singh first Investigating Officer and PW5 ASI Amrik Singh recovery witnesses** have stated in consonance that on 16.03.2019, ASI Supinder Singh along with ASI Amrik Singh and other police officials on a private vehicle in connection with patrolling and checking of suspected persons were going from village Kheri Naudh Singh towards village Fatehgarh Neoan. At about 09:00 PM, when the police party reached near Gurudwara Sahib of village Raipur Majri, they saw two persons having one polythene bag in their hands and they were checking the said poly bag. On the basis of suspicion, they stopped their car and then ASI Supinder Singh along with his police party went towards the accused for the purpose of checking them but the accused got perplexed and immediately tried to throw away one black colour poly bag on seeing the police party. However, poly bag from the hands of accused was apprehended by ASI Supinder Singh and after checking, it led to recovery of 17 intoxicant injections of Buprenorphine of 2 ml each having same batch number, manufacturing date and expiry date along with 17 bottles of Phineramine Maleate of 10 ml each. The parcel was sealed by ASI Supinder Singh with his seal bearing impression 'SS'. Seal was handed over to ASI Amrik Singh. Ruqa was sent with the request to send another Investigating Officer. ASI Jatinderpal Singh arrived at the spot to whom parcel and accused were handed over and also verified the facts

from the accused persons and case property and appended his seal bearing impression '**JS**' and also appended his seal on the sample seal slip. On return to police station, he produced both the accused persons, witnesses and case property in sealed condition before SHO/SI Gaganpreet Singh who verified the facts of the case from the accused, witnesses and case property and after being satisfied, he put his seal bearing impression '**GPS**'. On 17.03.2019, ASI Jatinderpal Singh took out the case property from MHC Sukhwinder Singh and produced it in the court for inventory proceedings. A perusal of inventory order **Ex.PW6/C** reveals that parcel containing 17 injections of Buprenorphine of 2 ml each and 17 bottles of Pheniramine Maleate of 10 ml each were produced, sealed with seal bearing impressions '**SS/JS/GPS**' which were found to be intact. Parcel was opened and four representative samples were drawn and the remaining case property was duly sealed with seal bearing impressions '**HG**' and '**JS**' of ASI Jatinderpal Singh. The said parcel was deposited with MHC/HC Sukhwinder Singh who presented the same before SHO/SI Gaganpreet Singh on 18.03.2019 who converted it into another parcel and appended his seal bearing impression '**GPS**' and secret Code No.004/2019. Thereafter, MHC handed over the same to C. Shiv Kumar through rode No.30 dated 18.03.2019 with the direction to deposit the same in the office of FSL Mohali after getting appended UID number from the office of SSP Fatehgarh Sahib. **C. Shiv Kumar** who appeared as **PW7** and by linking the chain of custody has deposed that he got appended secret Code number from the office of SSP Fatehgtarh Sahib

bearing No. 023/19/DPO/FGS dated 18.032019 and seal of 'JS' and deposited the sample parcel in sealed condition in the office of FSL Mohali. Further, a perusal of FSL report **Ex.PW6/B** shows that the sample was received with unique code No. 023/19/DPO/FGS dated 18.032019. On opening the parcel sealed with one seal of 'JS', it was found to contain another parcel bearing secret code No.004/2019 sealed with one seal of 'GPS'. On opening the parcel bearing secret code No. 004/2019, it was found to contain sealed parcel alleged to be seized from 'JS' and 'HG' and sealed with two seals, one each of 'JS' and 'HG'. On analysis the same, sample (I) was found to contain salt Buprenorphine Hydrochloride and sample (II) was found to contain salt Pheniramine Malete. Salt Buprenorphine Hydrochloride falls under the NDPS Act. When the chain of custody has been proved by the prosecution and the provision of Section 50 of NDPS Act does not apply on the facts of the present case, the argument of learned defence counsel that there are material contradictions in the statements of witnesses which are fatal to the prosecution version has no leg to stand.

26. Next limb of argument of learned defence counsel is that no independent witness was joined. It has been discussed above that it was a chance recovery when the police party was on patrolling duty. Therefore, joining of independent witness cannot be expected. Moreover, it has been held in case law reported as **Dharampal Singh vs State of Punjab (2010) 9 SCC 608** by Hon'ble Apex Court 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 the evidence on record, the court finds the case of prosecution to be trustworthy. Even in the case of **Surinder Kumar vs State of Punjab, 2020 (2) SCC 563**, it has been observed by Hon'ble Apex Court that merely because the prosecution did not examine any independent witnesses, it would not necessarily lead to conclusion that the accused was falsely implicated. Hence, from the ratio of the case laws discussed above, it culls out that it has to be seen whether the statements of official witnesses are trustworthy and full of credence or not. The thing which has to be kept in mind is the credibility of the witnesses examined by the prosecution. The prosecution has examined **PW4 ASI Supinder Singh first Investigating Officer, PW5 ASI Amrik Singh recovery witness and PW6 SI Jatinderpal Singh Investigating Officer**. All the above witnesses have been cross examined at length. In the light of the evidence led by the prosecution in the present case, non-joining of independent witness is not fatal to the prosecution version. The deposition of the police officials cannot be thrown away at the threshold merely on the ground that the independent witness was not joined. Thus, this argument of learned counsel is again not of any avail to him.

27. In the NDPS Act, **Sections 35 and 54** are relevant with regard to mental state of accused and possession as proof of offence. On one hand, section 35 of the Act mandates the Court to presume the existence of such mental state where culpable mental state is requisite for the commission of offence and it is for the accused to prove that he had no such mental state with respect to the act charged. Thus, the presumption is

rebuttable by the accused and he can lead the defence that he was not having such mental state i.e. non-existence of such intention, motive or knowledge of fact etc. On the other hand, section 54 provides that the court may presume the commission of offence by the accused on the basis of possession until contrary is proved. These presumptions are rebuttable but none of the accused has led any evidence to rebut them. Thus, once the accused are found in possession of any contraband, it is for the accused to prove that they were was not in conscious possession and they were not having any such mental state to commit the offence. It needs not to be proved that the accused was in actual physical possession. It is sufficient proof of possession when the accused is found in power and control of the contraband. Hon'ble Supreme Court of India in case of **Madan Lal vs State of Himachal Pradesh reported in 2003(4) RCR (Criminal) 100 Docket I.D. No.63903** observed in para no.27 & 28 as under:-

“Once possession is established, the person who claims that it was not a conscious possession has to establish it because how he came to be in possession is within his special knowledge. Section 35 of the Act gives a statutory recognition of this position because of presumption available in law.

The reverse burden is put on the accused to rebut the presumption that he was not having culpable mental state for commission of offence under the Act and he was not in conscious possession of the contraband. Provisions of Sections 35 and 54 of the Act are legal and valid.”

28. In order to rebut this presumption, the defence has examined **DW1 Rajinder Kaur** who has deposed that Jagjot Singh and Manjot Singh are her sons. On 16.03.2019, at about 7-8 AM, some police officials

visited their house and they asked regarding her both sons and told her that they required her sons for some investigation and illegally apprehended her both sons from their house and further told her that they would release her sons after some investigation but later on, she came to know that her sons had been falsely implicated in the present false case of NDPS Act. Her husband is handicapped and she has no other source for survival except her sons as they are innocent. However, in his cross examination, she stated that he never moved any application to any higher police officials at any point of time. Thus, they have not been able to rebut the presumption as discussed above.

29. In sequel to my above discussion, the prosecution has proved that accused Jagjot Singh and Manjot Singh @ Jot were **found in conscious possession of 17 intoxicant injections of Bupine of 2 ml each containing salt Buprenorphine Hydrochloride injections without any permit or licence.** Report of FSL Ex.PW6/B transpires the salt in the said injections to be **Buprenorphine Hydrochloride** which is a Narcotic Drug and Psychotropic Substance as mentioned at Sr. No. 169 of the table attached to sub clause (viia) and (xxiia) of section 2 of the NDPS Act and the prosecution has proved its case beyond reasonable doubt. Total quantity recovered from accused Jagjot Singh and Manjot Singh @ Jot weighed **34 grams** and the same falls within the **quantitative limit of commercial quantity.** Therefore, accused Jagjot Singh and Manjot Singh @ Jot are convicted under **Section 22 (c) of the NDPS Act, 1985.** Let they be taken into custody and be produced on 07.07.2026 to be heard on the

quantum of sentence.

**Pronounced:
04.07.2026**

**(Dr. SONIA KINRA)
Judge Special Court,
Fatehgarh Sahib
UID no. PB-0176**

**(Directly dictated on computer)
*Jagjit Singh Batta JW***