

**In the Court of Ms. Ekta, PCS,
(Unique Identity Code: PB0463)
Judicial Magistrate Ist Class-NRI,
Jalandhar.**

**Case No. NDPS/12/2024
Filing No. 5427 dated 20.03.2024
CNR No. PBJL03005429-2024
Decided On: 09.07.2026**

State Versus Jaspal Singh son of Harnam Singh R/o
Dograwal, PS Subhanpur, District
Kapurthala at present residing at Chandan
Nagar, Kartarpur, Jalandhar.

.....Accused.

**FIR No. 148 dated 17.11.2023
Under Section 21 of NDPS Act
Police Station Kartarpur, District Jalandhar Rural.**

Present: Ms. Gulpriya Gill, APP for the State.
Accused on bail with Counsel Ms. Jatinder Kaur, Advocate.

JUDGMENT

1. The above said accused has been sent up by the SHO of Police Station Kartarpur to face trial for the commission of offence punishable under Section 21 of NDPS Act.
2. Brief facts of the case of prosecution are that on 17.11.2023, ASI Resham Singh alongwith other police officials was present at Railway Crossing, Kapurthala Road, Kartarpur in connection with patrolling and checking of suspected persons and was conducting checking of vehicles plying on the road. In the meanwhile, one cut surd gentleman was seen coming on a motorcycle from Kapurthala side. SI Resham Singh signaled him to stop with torch light but the motorcyclist tried to turn back the motorcycle but his motorcycle stopped suddenly and he tried to throw

something out of the right pocket of his lower. On the basis of suspicion, he was apprehended by SI Resham Singh and on inquiring his whereabouts, he disclosed his name as Jaspal Singh. ASI Resham Singh informed him that the search of polythene held in his hand was to be conducted but he was having a right to get his search conducted from any Gazetted Officer or Magistrate. But Jaspal Singh reposed faith in ASI Resham Singh. Notice under Section 50 of NDPS Act was served upon him. Efforts were made to join independent witness, but nobody was ready to join the investigation. On conducting search of the polythene recovered from accused Jaspal Singh, heroin was recovered which on weighing came to be 04 gram heroin alongwith polythene. The recovered heroin alongwith polythene was put into a plastic box and was converted into a parcel which was sealed by ASI Resham Singh with his seal bearing impression "RS". Sample seal was prepared. Seal after use was handed over to ASI Pappu Gill. On conducting search of motorcycle make Splendor bearing no. PB-09-S-1813, no documents were recovered. Motorcycle bearing no. PB-09-S-1813 make Splendor without papers and recovered heroin sealed with seal bearing impression RS were taken into police possession vide separate recovery memo. Offence punishable under Section 21 of NDPS Act was made out. Ruqa was sent through SCT Gurbir Singh on the basis of which, FIR was registered. Site plan was prepared. Accused was arrested and his personal search was conducted. Memos were prepared to that effect which were attested by the witnesses. Statements of witnesses under Section 161 of Cr.P.C. were recorded. On

reaching Police Station, accused Jaspal Singh alongwith case property and motorcycle was produced before Inspector/SHO Ramandeep Singh who after interrogating the accused and verifying the facts and circumstances of the case sealed the sample parcel with his seal bearing impression “RS” alongwith “RS”. Thereafter, case property was deposited with Malkhana Munshi. On 18.11.2023, accused alongwith case property was produced before the Court and inventory was prepared and the sample parcel was sealed by the Presiding Officer with his seal bearing impression “KSM”. Thereafter, case property was sent for chemical examination. After receiving the report of Chemical Examiner and on completion of investigation, challan against the accused was presented in the Court.

3. On presentation of challan, copies of challan and documents relied upon by the prosecution were supplied to the accused, free of cost, as enshrined under Section 207 of Code of Criminal Procedure, 1973.

4. The arguments on charge were heard. After hearing submissions and going through the file of the case, this Court was of the opinion that there were sufficient grounds to presume that the accused has prima-facie committed an offence punishable under Section 21 of NDPS Act. Accused was duly served with the charge sheet, to which he pleaded not guilty and claimed trial.

5. To prove its case, prosecution has got examined PW1 Retired SI Resham Singh, Investigating Officer, PW2 ASI Pappu Gill, recovery witness, PW3 Satalanjeet Singh, Clerk, RTO Office, Kapurthala, PW4 ASI Manjit Singh, MHC, PW5 LCT Charanjit Kaur, sample carrier, PW6

Manjit Singh, owner of motorcycle, PW7 Inspector Ramandeep Singh, SHO and PW8 C Baldish Kaur. Thereafter, learned APP for the State closed the prosecution evidence.

6. PW1 Retired SI Resham Singh, Investigating Officer, proved the mode and manner in which he conducted the investigation of the present case and deposed to the effect that on 17.11.2023, while checking, accused was apprehended on the basis of suspicion and 04 gram heroin was recovered from the conscious possession of accused. He has also proved notice under Section 50 NDPS Act Ex. PW1/A, sample seal Ex. PW1/B, ruqa Ex. PW1/C, FIR Ex. PW1/D, arrest-cum-intimation memo Ex. PW1/E, recovery memo Ex. PW1/F vide which, heroin and vehicle make Splendor bearing no. PB-09-S-1813 was taken into police possession, rough site plan Ex. PW1/G, personal search memo Ex. PW1/H, inventory order Ex. PW1/I and FSL report Ex. PW1/J.

7. PW2 ASI Pappu Gill, recovery witness, fully supported and corroborated the prosecution version and deposed regarding the recovery of 04 gram heroin from the conscious possession of accused. He has also proved notice under Section 50 NDPS Act Ex. PW1/A, sample seal Ex. PW1/B, ruqa Ex. PW1/C, FIR Ex. PW1/D, arrest-cum-intimation memo Ex. PW1/E, recovery memo Ex. PW1/F vide which, heroin and vehicle make Splendor bearing no. PB-09-S-1813 was taken into police possession, rough site plan Ex. PW1/G and personal search memo Ex. PW1/H.

8. PW3 Satalanjeet Singh, Clerk, RTO Office, Kapurthala

brought the summoned record and proved the computerized attested record of vehicle i.e. Splendor Pro colour black bearing no. PB-09-S-1813 having chassis no. 18819 and Engine No. 18563 registered in the name of Manjit Singh son of Gurnam Singh resident of Dogranwali, PO Harmira, District Kapurthala Ex. PW3/A alongwith certificate under Section 63 BSA Ex. PW3/B upon which, he identified his signature at point A.

9. PW4 ASI Manjit Singh deposed to the effect that on 17.11.2023, he was posted at PS Kartarpur as MHC. On that day, Inspector Ramandeep Singh deposited with him case property of the present case i.e. one parcel containing 04 gm heroin duly sealed with the impression i.e. RS and RS and one motorcycle Splendor bearing no. PB-09-S-1813 for depositing the same in the Malkhana. He deposited the same and made an entry in register no. 19 and proved the said entry as Ex. PW4/A. Thereafter, on 18.11.2023, he handed over the above stated parcel to IO/ASI Resham Singh for extracting inventory from the concerned Illaqa Magistrate. On the same day, ASI Resham Singh deposited the said parcel duly sealed with seal impression KSM/RS alongwith form no. 4, 5, 6 and 29-M after extracting inventory with him and he deposited the same in the Malkhana. Thereafter, on 21.11.2023, he handed over the above stated parcel duly sealed with seal impression "KSM" alongwith form no. M 29 vide rod no. 309/21 to LC Charanjit Kaur for depositing the same in the office of Forensic Science Laboratory, SAS Nagar, Punjab. She deposited the same with Forensic Science Laboratory, SAS Nagar and on returning to Police Station, she handed over to him receipt regarding the same. Till

the said sample parcel remained with him, neither he himself nor he allowed anyone else to tamper with the same. He has also proved FSL report Ex. PW1/J.

10. PW5 LCT Charanjit Kaur, sample carrier, deposed to the effect that on 21.11.2023, she was posted at PS Kartarpur, Jalandhar. On that day, MHC Manjit Singh handed over to her one parcel containing intoxicant material i.e. 04 gram heroin duly sealed with impression KSM/RS after taking out the same from the Malkhana of Police Station vide RC no. 309/21/2023 for depositing the same in the office of Forensic Science Laboratory, SAS Nagar, Punjab. She deposited the same on the same day and brought the receipt and handed over the same to MHC Manjit Singh on the same day. Till the said sample parcel remained with her, neither she herself nor she allowed anyone else to tamper with the same.

11. PW6 Manjit Singh, owner of motorcycle, did not support the case of the prosecution and resiled from his previous statement given to the police and deposed that he was owner of motorcycle bearing no. PB-09-S-1813 and had not given his motorcycle to Jaspal at any point. His said motorcycle was stolen since year 2023 from Bhatta Village and he made complaint at PP Badshah Pur. At the request of learned APP for the State, this witness was declared hostile and learned APP was allowed to cross-examine this witness, but to no effect.

12. PW7 Inspector Ramandeep Singh, SHO, deposed to the effect that on 17.11.2023, he was posted as Inspector/SHO at PS Kartarpur,

District Jalandhar. On the same day, IO Resham Singh produced accused alongwith the sealed parcel with seal impression "RS" at PS Kartarpur, District Jalandhar. He found the parcel duly sealed with seal impression "RS" in intact form. Thereafter, he prepared sealed parcel alongwith his seal impression "RS". Thereafter, the abovesaid sample parcel duly sealed with seal impression "RS" and "RS" was handed over to MHC who deposited the same in Police Malkhana.

13. PW8 C Baldish Kaur deposed to the effect that on 15.02.2024, MHC handed over to her one letter bearing no. 218/CH dated 13.02.2024 to bring FSL report from the office of Forensic Science Laboratory and she proved the said letter as Ex. PW8/A. Thereafter, she took one sample parcel and FSL report from SAS Nagar and handed over the same to MHC. Till the time, the said parcel alongwith FSL report remained with her, neither she herself nor she allowed anyone else to tamper with the same. During her cross-examination, she proved her statement recorded under Section 161 Cr.P.C. Ex. D1.

14. On closure of prosecution evidence, statement of accused under Section 351 of BNSS was recorded in which all the incriminating evidence appearing against the accused was put to him, which was denied by the accused. The accused pleaded his innocence and false implication.

15. In his defence, accused got examined DW1 ASI Manjit Singh, MHC, who brought the motorcycle bearing no. PB-09-S-1813 deposited by Investigating Officer ASI Resham Singh with him and he proved the Chasis no. MBLHA10ADBHK of the said motorcycle Ex.

DW1, engine number HA10EHBHK07422 of the said motorcycle Ex. D2 and photographs of said motorcycle Ex. D3 to Ex. D7 and further deposed to the effect that the engine number and chasis number reflected on the motorcycle brought by him today do not match with computerized record of motorcycle produced by PW3 Satalanjeet Singh, Clerk, RTO Office, Kapurthala Ex. PW3/A.

16. Thereafter, learned Counsel for accused closed defence evidence on behalf of accused.

17. I have heard the learned APP for the State as well as learned Defence Counsel and have also gone through the record carefully. The following points arose for determination in this case:-

1. Whether on 17.11.2023, in the area of Railway Crossing, Kapurthala Road, PS Kartarpur, accused Jaspal Singh was found in possession of 04 gram heroin while being on motorcycle bearing no. PB-09-S-1813 and as such, committed the offence punishable under Section 21 of NDPS Act?

2. Conclusion.

18. I have heard the submissions made by learned APP for the State and learned Defence Counsel and have also gone through the record. My findings on the aforesaid points are as under :-

Point of determination no. 1:-

19. It is a well established principle of law that the prosecution has to prove its case beyond shadow of reasonable doubt against the accused. To prove the charge against the accused under Section 21 of NDPS Act, prosecution has got examined PW1 Retired SI Resham Singh,

Investigating Officer, PW2 ASI Pappu Gill, recovery witness, PW3 Satalanjeet Singh, Clerk, RTO Office, Kapurthala, PW4 ASI Manjit Singh, MHC, PW5 LC Charanjit Kaur, sample carrier, PW6 Manjit Singh, owner of motorcycle, PW7 Inspector Ramandeep Singh and PW8 C Baldish Kaur.

20. The accused has been put to trial in this case for the offence punishable under Section 21 of NDPS Act on the allegations that on 17.11.2023, police party headed by ASI Resham Singh was on patrolling duty and was conducting checking of vehicles plying on the road and during checking, accused Jaspal Singh was apprehended on the basis of suspicion and 04 gram heroin including polythene was recovered from his conscious possession. Admittedly, no independent witness was joined into police party. Both PW1 Retired SI Resham Singh, Investigating Officer and PW2 ASI Pappu Gill, recovery witness, have admitted in their cross-examination that the place of recovery was thoroughfare but the police party did not make any attempt to join any neighbour, chowkidar, member, Sarpanch or respectable of the Village at the time of alleged recovery. Section 100(4) of Code of Criminal Procedure 1973 envisages that before making any search, the officer or other person about to make the search shall call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situated or of any other locality, if no such inhabitant of said locality is available or is willing to be a witness to the search, to attend and witness the search and may also issue an order in writing. In the absence of any plausible explanation being

available for non-joining of such witness, serious suspicion is cast upon the prosecution version. Support is drawn from “***Jarnail Singh Versus State of Haryana 2000(1) RCR (CR.) 442***” wherein it was observed that at the time of recovery of illicit liquor, no independent witness was joined to corroborate the testimony of the police officials. Such an investigation amounts to camera proceedings or ex-parte proceedings against a citizen. Accused was acquitted in the instant case in the facts and circumstances of the case. In case titled as “**Shishpal and another Versus State of Haryana, 2011 (1) R.C.R. (Criminal), 267,**” no independent witness was joined by the police, although the recovery was effected from the accused at a thoroughfare and the witnesses were available. The Investigating Officer had not recorded statement of any person nor had proceeded against those who had refused to become the part of the raiding party. The Hon'ble Court has held that in such a case, the contention that the police officials made earnest efforts to join the independent witnesses, was nothing but a farce. Consequently, accused was acquitted of the charges framed against him. Furthermore, no videography or photography was done at the time of alleged recovery from the accused and even no CCTV footage of the nearby shops or places was collected from the place of occurrence. This casts a serious doubt on the entire version of the prosecution.

21. Furthermore, it is the case of prosecution that at the time of alleged recovery, accused was going on motorcycle make Splendor bearing no. PB-09-S-1813 and as per the testimony of PW3 Satalanjeet Singh, Clerk, RTO Office, Kapurthala, the said motorcycle is registered in

the name of Manjit Singh son of Gurnam Singh and he proved the relevant record regarding the same as Ex. PW3/A. Said Manjit Singh has been got examined in this case by the prosecution as PW6 but he has not supported the case of prosecution alleged to the effect that on 17.11.2023, accused Jaspal Singh who was his relative had taken his motorcycle for some purpose and later on, he had come to know that accused Jaspal Singh was arrested under NDPS Act and from his possession, his motorcycle was recovered. Rather he deposed to the effect that he had not given his motorcycle to accused Jaspal Singh at any point of time and his motorcycle was stolen since 2023 from Bhatta Village and he had even made a complaint regarding the same at PP Badhshah Pur. This also creates a dent in the story of prosecution with regard to accused being going on the alleged motorcycle at the time of alleged recovery.

22. Furthermore, there are number of discrepancies in the statements of official witnesses. It is stated by PW1 Retired SI Resham Singh, police party departed from the Police Station at about 05:30 PM whereas PW2 ASI Pappu Gill, recovery witness, stated that police party departed from the Police Station at about 06:00 PM. Further PW1 stated that accused was arrested at 06:10 PM whereas PW2 stated that accused was arrested at 07:00 PM. PW1 Retired SI Resham Singh, Investigating Officer, stated that they were not having any investigation kit alongwith them at the time of alleged recovery but thereafter, he stated that he weighed the alleged recovered substance with weighing scale present in his investigation kit. This also creates a dent in the story of prosecution.

Furthermore, IO said no complaint regarding the theft of the motorcycle in question was received by him. It is an admitted fact that the motorcycle was not in the name of the accused and he also stated that he did not record the statement of owner of alleged recovered vehicle whereas PW6 Manjit Singh, owner of motorcycle, has been got examined by the prosecution but as already mentioned above, he has not supported the case of the prosecution.

23. In view of the aforesaid discussion, the prosecution has failed to prove its case against the accused beyond the shadow of reasonable doubt to the effect that on 17.11.2023, in the area of Railway Crossing, Kapurthala Road, PS Kartarpur, accused Jaspal Singh was found in possession of 04 gram heroin while being on motorcycle bearing no. PB-09-S-1813. Accordingly, point of determination no. 1 is answered negatively.

CONCLUSION:-

24. In view of my findings on point of determination no. 1, the prosecution has miserably failed to prove the guilt of accused beyond reasonable doubt. Accordingly, accused Jaspal Singh is acquitted of the charge framed against him. He and his surety also stand discharged. FDR, if any, furnished at the time of furnishing surety bonds on behalf of accused be released to the surety against proper receipt and identification as per rules. Case property i.e. heroin, if any, be disposed of and vehicle involved alongwith its record shall vest absolutely in its true owner as per

rules after the expiry of period of appeal or revision, if any, as the case may be. File be consigned to the record room.

Pronounced in open Court.

Dated : 09.07.2026

Anju

(Ekta)
(Unique Identity Code: PB0463)
Judicial Magistrate Ist Class-NRI,
Jalandhar.