

**IN THE COURT OF ADDITIONAL DISTRICT & SESSIONS JUDGE 1ST
COURT, SURI, BIRBHUM**

Present : Sri Arup Kumar Das,
Judge Special under NDPS Act, Birbhum

**C. Case No. 25/2015
CNR No.WBBB01-001074-2015
CIS registration no. 3 of 2016
J.O. CODE : WB00625**

State of West Bengal

Vs.

Lalan Mia accused person

Learned Advocate for the State: Sri Tapan Kumar Goswami.

Learned Advocate for the accused person: Sri Nripendra Kr. Banerjee.

Charge under Section 20 (b)(i) of NDPS Act, 1985.

Date of delivery of Judgement : 30.07.2026

J U D G E M E N T

The prosecution case, in brief, is that on 25.07.2015 at about 19:25 hours S.I. Debabrata Sinha, O.C Sainthia P.S. received secret information to the effect that a person, aged 28/30 years wearing pant shirt is waiting on Sainthai -Suri Road near B.L. & L.R.O. Office morh with a paper cartoon in his hand. The cartoon may have contained objectionable smuggle good. He then informed his superior officer and left P.S. by official vehicle with S.I. Bahadur Mondal, Constable Pravakar Banerjee and Constable Gadadhar Mondal to work out the information after lodging GDE No. 1144 dated 25.07.2015 at Sainthia P.S. At about 19:40 hours they reached near B.L. & L.R.O. Office under Sainthia P.S. and found that the accused person having a paper cartoon loaded with some articles is waiting by the side of B.L. & L.R.O. Office bus stand. They encircled him. On interrogation the accused person confessed that the cartoon contained Ganja and the same were procured from Rampurhat side and that he was proceeding towards Suri for its sale elsewhere. Then S.I. Debabrata Sinha

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tried to contact with BDO, Sainthai over phone but he was found absent. He then contacted with S.P. Birbhum, who assured him to sent C.I. (A) Sadar, a Gazetted Officer at P.O. After some times, C.I.(A) Sadar came to the P.O. They offered the accused person to search themselves but he refused to do so. Thereafter, in presence of C.I. Sadar and after observing all legal formalities, S.I. Debabrata Sinha searched the paper cartoon of the accused person and found 7.3 kg. of Ganja which was kept in the cartoon in a white colour polythene packet. Ganja was seized and the accused person was arrested by S.I. Debabrata Sinha. After returning to P.S. with the accused person and the seized Ganja, S.I. Debabrata Sinha lodged a complaint against the accused person regarding the incident and on the basis of the same Sainthia P.S. Case No. 143/2015 dated 25.07.2015 u/s 20 (b) (i) of N.D.P.S. Act was started against the accused person. After completion of investigation, a charge sheet was submitted against the accused person u/s 20(b)(i) of N.D. P.S Act & sec.

Charge was framed against the accused persons u/s 20(b)(i) of NDPS Act . The accused person pleaded not guilty and demanded trial. Hence, trial commenced.

Points for consideration:

The points that arise for my consideration are –

- (1) whether the accused person has committed the alleged offence punishable under section 20(b)(i) of NDPS Act ?
- (2) whether the case against the accused person stands established beyond reasonable doubt ?

Decision with reasons:

In order to prove this case, the prosecution has examined four witnesses. PW-1 is Constable Pravakar Banerjee. He deposed that on 25.07.2015 he posted at Sainthia P.S. as Constable of Police. At that time, one Debabrata Sinha was O.C. of that P.S. On that date at night about 8.00/9.00 p.m. he himself, Gadadhar Mondal and a Constable accompanied O.C. Debabrata Sinha at Chhotline para at Ahamadpur where they

detained one person and on being searched they recovered 7/8 kgs of Ganja from his possession which he was carrying in a nylon bag. C.I. Sahed was also present at the time of seizure. He (PW-1) signed on the seizure list as witness. P.W.-1 proved his signature on the seizure list which was marked as Exbt. 1. He claimed that he could have identified the accused person had he been present in the Courtroom.

PW-2 is Ujjawal Bhattacharya. He is one of the seizure witness. He deposed that he knows the accused person. He proved his signature on the seizure list which was marked as Exbt. 1/1. He deposed that Police arrested one person having some contraband articles. At that time police asked him to sign on a seizure list and as such he signed on the seizure list.

PW-3 is Gadadhar Mondal. He deposed that he is a Constable of Police. On 25.07.2015 he was posted at Sainthia P.S. At that time one Debabrata Sinha was the O.C. in that P.S. On that date he himself along with Constable Pravakar Banerjee accompanied O.C. at BL&LRO office near Sainthia-Suri bus road where he detained one person with Ganja. C.I. Saheb was also present and in his presence said Ganja was recovered from the possession of the accused person. P.W-3 proved his signature on the seizure list which was marked as Exbt. 1/ 2. In cross-examination PW-3 replied that he was not aware about the contents of the seizure list and he signed on the seizure list at P.S. under instruction of their officer.

PW-4 is Bahadur Mondal. He deposed that on 25.07.2015 he was posted at Sainthia P.S. as S.I. of Police. During that period Debabrata Sinha was posted as O.C. Sainthia P.S. On that day at about 7:25/7.30 S.I. Debabrata Sinha received a source information that a man aged about 28-30 years is standing in the bus stand near BL&LRO office with some contraband in a paper carton. As per instruction of S.I. Debabrata Sinha he himself, Constable Pravakar Banerjee and Constable Gadadhar Mondal left the P.S. and reached at the bus stop. After reaching there they noticed that a person was standing in that bus stand. S.I. Debabrata Sinha interrogated him and the person confessed that he is carrying Ganja in that carton. Debabrata Sinha informed the matter to C.I. over mobile

phone. C.I. Sri Anandamoy Ghosh came to the spot and he conducted searched of that person and found Ganja from that cartoon. On being weighed it was found that the miscreant was possessing 7.3 kgs Ganja. S.I. Debabrata Sinha prepared a seizure list in his presence. Three samples weighing 100 gms were taken and those samples were labelled. Thereafter, they returned to P.S. along with miscreant and seized alamsats and complaint was filed. PW-4 claimed that he could have identified the accused person had he been present in the Courtroom. In cross-examination PW-4 failed to say the GDE number under which they left the P.S. and the name of the driver of the vehicle or registration number of the vehicle in which they went to the spot.

From the seizure list dated 25.07.2015 it appears that there is only one local witness of seizure namely, Sri Ujjwal Bhattacharya. The said witness is examined as PW-2. PW-2 clearly replied in cross-examination that no Ganja was recovered from any person in his presence. According to prosecution case, the allged search and seizure was conducted in presence C.I.(A) Sadar who is a Gazetted Officer. The prosecution has failed to examine him to prove that the search and seizure was made in presence of a Gazetted Officer. No report of Forensic Expert regarding sample of the alleged seized ganja has been proved or marked as exhibit by the prosecution. No forensic examiner has been examined. So, it has not been proved that the alleged seized contraband substance was Ganja i.e. a narcotics substance. As per FIR, S.I. Debabrata Sinha along with police force went to the P.O. and saw the accused person there and thereafter, he requested the S.P. Birbhum over phone to send a Gazetted Officer. After some times of the reaching of the police party at the P.O. C.I. (A) Sadar came there. But PW-3 replied in cross-examination that they left P.S. with O/C including C.I. for holding raid. This is a serious contradiction. The prosecution has failed to examined the de facto complainant who conducted the search and seizure and the C.I (A) Sadar in whose presence search and seizure was conducted. It is also not clear from the evidence of prosecution witness as to whether before seach and seizure written notice u/s 50 of N.D.P.S. Act was served upon the accused person as no copy of the said notice has been exhibited by the prosecution. Therefore, I have no

hesitation to hold that the prosecution has failed to prove the charge framed against the accused person beyond all shadow of reasonable doubt and as such the accused person is entitled to be acquitted on benefit of doubt.

Accordingly, it is

ORDERED

that the accused person, namely, Lalan Miya is found not guilty of the charge punishable u/sec. 20(b)(i) of NDPS Act and as such, he is acquitted under section 258 of Bharatiya Nagarik Suraksha Sanhita, 2023. He be set at liberty forthwith. He is discharged from his bail bonds. His sureties are also discharged.

Seized alamats, if any, be destroyed after the period of appeal.

Dictated & corrected by me

Judge, Special Court under
NDPS Act, Birbhum

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NDPS Act, Birbhum.