



2026:CGHC:31433-DB



CGHC010026722026



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 307 of 2026

1 - Baidyanath Manjhi S/o Late Rusi Manjhi Aged About 34 Years R/o Tandapali Nayak Para Thana Koksara, Distt. Kalahandi Odisha.

2 - Mokarand Dhurva S/o Shri Diyari Dhurva Aged About 38 Years R/o Chota Gohira Thana Koksara, Distt. Kalahandi Odisha.

--- **Appellants**

Versus

State of Chhattisgarh Through P.S. Darbha, Distt. Bastar, Chhattisgarh.

--- **Respondent**

CRA No. 853 of 2026

Gopal Nayak S/o Late Darjo Nayak Aged About 38 Years R/o Kumjor Uparpara, Police Station Jaipatna, District Kalahandi (Odisha)

--- **Appellant**

Versus

State of Chhattisgarh Through The Police Station Darbha, District Jangdalpur (C.G.)

... **Respondent**

(Cause-title taken from Case Information System)

For Appellant (In CRA No.307/2026)	:	Mr. Vikas A. Shrivastava, Advocate
For Appellant (In CRA No.853/2026)	:	Ms. Sofia Khan, Advocate
For State/Respondent	:	Mr. Sumit Singh Deputy Government Advocate



Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

23.07.2026

1. As both the criminal appeals arise from the common order dated 12.11.2025 passed by the learned Special Judge (NDPS Act), Bastar at Jagdalpur in Special Criminal Case (NDPS Act) No. 13/2019, they were clubbed together, heard together, and are being disposed of by this common judgment.
2. Criminal Appeal No. 307 of 2026 has been preferred by accused Baidyanath Manjhi and Mokarand Dhurva, whereas Criminal Appeal No. 853 of 2026 has been preferred by accused Gopal Nayak, assailing the judgment of conviction and order of sentence dated 12.11.2025 passed by the learned Special Judge (NDPS Act), Bastar at Jagdalpur in Special Criminal Case (NDPS Act) No. 13/2019, whereby all the appellants have been convicted for the offence punishable under Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") and sentenced to undergo rigorous imprisonment for 15 years along with a fine of ₹1,00,000/- each. In default of payment of fine, each of them has further been directed to undergo rigorous imprisonment for one year.
3. The prosecution case, as unfolded before the learned Trial Court, is that on 24.03.2019, Sub-Inspector, namely Vishnu Prasad



Yadav (PW-10), who was then posted at Police Station Darbha, District Bastar, received a confidential information from a reliable informer to the effect that three persons were travelling in a white Maruti Suzuki 800 car without a registration number plate carrying a huge quantity of contraband ganja concealed in the dickey as well as on the middle seat of the vehicle. It was further informed that the said vehicle was proceeding from the Sukma-Tongpal side towards Jagdalpur and would pass through National Highway No.30. The information so received was immediately reduced into writing in the daily diary and the superior police officers were informed telephonically. Thereafter, in compliance with the statutory requirements under the NDPS Act, PW-10 prepared the written information regarding receipt of the secret information (Ex. P/6), the memorandum recording the inability to obtain a search warrant (Ex. P/7) and the informer's information panchnama (Ex. P/8). Two copies of the said documents were forwarded through Constable Shridhar Pujari (PW-1) to the office of the Sub-Divisional Officer of Police, Keshlur, and the relevant entries regarding receipt thereof were duly made in the inward register, which have been exhibited as Ex. P/1, Ex. P/8-C as well as Ex. P/10-C.

4. The prosecution further alleged that PW-10 deputed Constable Omkar Patra (PW-2) to secure the presence of two independent witnesses. Pursuant thereto, Kamal Yadav (PW-7) and Dilip Kumar Nag (PW-4) were summoned to the police station by



issuing notices under Section 160 of the Code of Criminal Procedure, 1973 (for short, 'CrPC'), and after apprising them of the secret information and the proposed search proceedings under the NDPS Act, their written consent to act as independent witnesses was obtained. Thereafter, PW-10, accompanied by the police party, the independent witnesses, the NDPS investigation kit, electronic weighing machine and sealing material, proceeded towards NH-30 near the CRPF Camp at Kamanar for laying a surveillance and interception. Ex. P/11 and Ex. P/30 are the notices issued to the independent witnesses under Section 160 of the CrPC.

5. According to the prosecution, while the police party was checking vehicles near the CRPF Camp at Kamanar, a white Maruti Suzuki 800 car without a registration number plate, answering the description furnished by the informer, approached the spot. The vehicle was intercepted and three occupants were found travelling therein. Upon enquiry, they disclosed their names as Gopal Nayak, Baidyanath Manjhi and Mokarand Dhurva, who are the present appellants. Before conducting the search, each of the accused persons was individually informed of his legal right under Section 50 of the NDPS Act through separate notices (Ex. P/13, Ex. P/14 and Ex. P/15). Thereafter, the search of the vehicle was carried out in the presence of the independent witnesses after preparing the personal search panchnama (Ex. P/5) and the search panchnama (Ex. P/17). During the search, twelve packets



containing a substance suspected to be ganja were recovered from the dickey and the middle portion of the vehicle. The recovery was recorded in the seizure/recovery panchnama (Ex. P/18). The recovered substance was identified by the witnesses, on the basis of its smell, appearance and other physical characteristics, to be ganja and the identification memorandum was prepared as Ex. P/19.

6. The prosecution further alleged that notices under Section 67 of the NDPS Act (Ex. P/42, Ex. P/43 and Ex. P/44) were served upon the appellants requiring them to produce any lawful authority or document permitting possession or transportation of the contraband. Since none of the appellants could produce any such document, the electronic weighing machine was first verified by Head Constable Ajay Kumar Sahu (PW-5) through a verification memorandum (Ex. P/20), whereafter the recovered contraband was weighed in the presence of the witnesses. On weighment, the total quantity of the contraband was found to be 140 kilograms contained in twelve packets. The weighment memorandum (Ex. P/21), seizure memo (Ex. P/22) and sample seal memorandum (Ex. P/23) were accordingly prepared and the seized articles were duly sealed on the spot.
7. Since the recovered quantity was commercial in nature, the appellants were informed of the grounds of their arrest by serving notices under Section 52(1) of the NDPS Act (Ex. P/23),



whereafter appellant Gopal Nayak was arrested vide arrest memo Ex. P/24, appellant Baidyanath Manjhi vide Ex. P/25 and appellant Mokarand Dhurva vide Ex. P/26. Intimation regarding their arrest was also furnished to their respective family members as reflected in Ex. P/46. During the course of investigation, the Investigating Officer prepared the spot map (Ex. P/27), obtained the Patwari map (Ex. P/28) and the Patwari panchnama (Ex. P/29), recorded the statements of the prosecution witnesses under Section 161 of the Code and deposited the seized contraband in the Malkhana, the relevant entries whereof are Ex. P/31 and Ex. P/32. The Dehati Nalishi (Ex. P/33) and the formal First Information Report (Ex. P/34) were thereafter registered.

8. The prosecution also undertook the inventory and sampling proceedings in accordance with Section 52-A of the NDPS Act by obtaining the requisite orders from the competent Court. The sample was thereafter forwarded to the Regional Forensic Science Laboratory, Jagdalpur for chemical examination. The forwarding letter is Ex. P/52 and the chemical examination report is Ex. P/55, wherein the sample marked 'A-1' was opined to be ganja (cannabis). During investigation, correspondence was also made with the Transport Authorities and the Maruti Suzuki showroom to ascertain the ownership of the vehicle used in the commission of the offence. Upon completion of the investigation and after collecting all documentary and oral evidence, a charge-sheet was filed before the Special Court against all the three



accused persons for the offence punishable under Section 20(b)

(ii)(C) of the NDPS Act.

9. In order to bring home the charge, the prosecution examined ten witnesses, namely, Shridhar Pujari (PW-1), Omkar Patra (PW-2), Chaituram Nag (PW-3), Dilip Kumar Nag (PW-4), Ajay Kumar Sahu (PW-5), Rajesh Sinha (PW-6), Kamal Yadav (PW-7), Praveen Kumar Joshi (PW-8), Lalji Sinha (PW-9) and the Investigating Officer Vishnu Prasad Yadav (PW-10), and proved as many as sixty-one documents (Ex. P/1 to Ex. P/61) in support of its case.
10. After the prosecution evidence was concluded, the statements of the appellants under Section 313 of the CrPC were recorded, wherein they denied all the incriminating circumstances appearing against them, pleaded false implication and did not examine any witness in defence.
11. Upon a comprehensive appreciation of the entire oral and documentary evidence adduced by the prosecution and after critically examining the testimonies of the prosecution witnesses as well as the documentary exhibits proved on record, the learned Special Judge came to the conclusion that the prosecution had succeeded in establishing the guilt of the appellants beyond all reasonable doubt. The learned Trial Court found that the recovery of commercial quantity of contraband ganja from the conscious possession of the appellants stood duly



proved and that the statutory requirements contemplated under the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985 had been substantially complied with. Accordingly, the learned Trial Court convicted all the appellants for the offence punishable under Section 20(b)(ii)(C) of the NDPS Act and sentenced them in the manner indicated in the opening part of this judgment.

- 12.** Feeling dissatisfied and aggrieved by the judgment of conviction and the order of sentence dated 12.11.2025 passed by the learned Special Judge (NDPS Act), Bastar at Jagdalpur in Special Criminal Case (NDPS Act) No.13/2019, the appellants have preferred the present criminal appeals under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 374(2) of the CrPC), assailing the findings recorded by the learned Trial Court. The appellants have questioned the correctness, legality and propriety of the impugned judgment, contending that the findings of conviction are contrary to the evidence available on record and suffer from serious legal and factual infirmities. Hence, these appeals.
- 13.** Mr. Vikas A. Shrivastava, learned counsel appearing for the appellants in Criminal Appeal No.307 of 2026, assailed the impugned judgment of conviction and order of sentence by submitting that the learned Trial Court has committed a manifest error of law as well as of fact in recording the finding of guilt



against the appellants. It is contended that the conviction is not founded upon legally admissible and trustworthy evidence, but is based on mere assumptions, presumptions and surmises. According to the learned counsel, the prosecution has failed to establish the foundational facts necessary for bringing home the charge under Section 20(b)(ii)(C) of the NDPS Act beyond all reasonable doubt and, therefore, the finding of conviction recorded by the learned Trial Court deserves to be set aside. He further submitted that the learned Trial Court failed to appreciate the settled principle of criminal jurisprudence that however grave the suspicion may be, the same cannot substitute legal proof. It is argued that the prosecution evidence, when scrutinized in its proper perspective, suffers from material contradictions, omissions and procedural irregularities, which create a serious doubt regarding the prosecution story. However, instead of extending the benefit of doubt to the appellants, the learned Trial Court erroneously accepted the prosecution case in its entirety without subjecting the evidence to the degree of scrutiny required in a prosecution under the stringent provisions of the NDPS Act.

14. Mr. Shrivastava next contended that the mandatory safeguards prescribed under the provisions of the NDPS Act have not been duly complied with by the investigating agency. Referring to the evidence of the Investigating Officer, Vishnu Prasad Yadav (PW-10), and the documentary evidence brought on record, it is submitted that the prosecution has failed to establish strict



compliance of the statutory procedure contemplated under Sections 42, 50, 52 and 57 of the NDPS Act. Though the prosecution has relied upon the written information regarding receipt of secret information (Ex. P/6), the memorandum regarding inability to obtain a search warrant (Ex. P/7), the informer information panchnama (Ex. P/8), the notices issued under Section 50 of the NDPS Act (Ex. P/13 to Ex. P/15), the seizure memo (Ex. P/22), the arrest memos (Ex. P/24 to Ex. P/26), and the report sent to the superior authorities (Ex. P/9), learned counsel submits that the prosecution has failed to satisfactorily establish their due compliance in accordance with law. It is further submitted that the prosecution has examined two independent witnesses, namely, Dilip Kumar Nag (PW-4) and Kamal Yadav (PW-7), to lend credibility to the alleged search and seizure proceedings. However, according to learned counsel, their testimonies are not free from material contradictions and inconsistencies and do not inspire confidence. It is argued that the learned Trial Court failed to properly appreciate the discrepancies appearing in their evidence and erroneously discarded the infirmities pointed out by the defence. It is submitted that once the evidence of the independent witnesses becomes doubtful, the prosecution case rests substantially upon the testimonies of police witnesses alone, which, in the facts of the present case, required greater caution and corroboration before being relied upon.



- 15.** Mr. Shrivastava also submitted that the prosecution has failed to establish an unbroken chain of circumstances regarding the seizure, sealing, custody and forwarding of the alleged contraband to the Forensic Science Laboratory. Though reliance has been placed upon the seizure memo (Ex. P/22), sample seal memorandum (Ex. P/23), Malkhana Register entries (Ex. P/31 and Ex. P/32), forwarding letter (Ex. P/52) and the FSL report (Ex. P/55), the evidence led by the prosecution is, according to him, insufficient to rule out the possibility of tampering with the seized material. Lastly, Mr. Shrivastava submitted that even assuming, without admitting, that the conviction is sustainable, the sentence imposed upon the appellants is unduly harsh and disproportionate to the facts and circumstances of the case. It is, therefore, prayed that the impugned judgment of conviction and order of sentence be set aside and the appellants be acquitted of all the charges. In the alternative, it is prayed that the sentence awarded to the appellants be suitably reduced in accordance with law.
- 16.** Ms. Sofia Khan, learned counsel appearing for the appellant Gopal Nayak in Criminal Appeal No.853 of 2026, vehemently assailed the impugned judgment of conviction and order of sentence by contending that the same is wholly unsustainable in law as well as on facts. According to the learned counsel, the findings recorded by the learned Trial Court are perverse, contrary to the evidence available on record and based upon an



erroneous appreciation of the oral as well as documentary evidence. It is submitted that the prosecution has failed to establish the essential ingredients of the offence punishable under Section 20(b)(ii)(C) of the NDPS Act and, therefore, the conviction and sentence awarded to the appellant deserve to be set aside. She submitted that the prosecution has utterly failed to establish the conscious possession of the alleged contraband by the appellant. It is argued that neither the recovery nor the seizure of the alleged contraband from the exclusive or conscious possession of the appellant has been proved beyond reasonable doubt. The learned Trial Court, according to the learned counsel, has mechanically accepted the prosecution version without there being any cogent evidence establishing the appellant's conscious possession of the seized contraband.

17. Ms. Khan further submitted that the prosecution case stands seriously weakened on account of the fact that both the independent seizure witnesses, namely, Dilip Kumar Nag (PW-4) and Kamal Yadav (PW-7), did not support the prosecution case in material particulars. Their evidence, according to the learned counsel, does not corroborate the version put forth by the prosecution regarding the alleged search, seizure and recovery proceedings. It is contended that despite the independent witnesses having failed to lend support to the prosecution story, the learned Trial Court erroneously relied solely upon the interested testimonies of the police officials to record the



conviction. Such an approach, according to the learned counsel, is contrary to the settled principles governing criminal trials, particularly under the stringent provisions of the NDPS Act. It is further contended that the testimony of the Investigating Officer, Vishnu Prasad Yadav (PW-10), suffers from material contradictions, omissions and inconsistencies, which strike at the very root of the prosecution case. According to the learned counsel, these contradictions have not been properly appreciated by the learned Trial Court, which has accepted the evidence of the Investigating Officer without subjecting it to the strict scrutiny required in prosecutions under the NDPS Act.

- 18.** Ms. Khan next submitted that the prosecution has failed to establish the safe custody of the seized contraband from the time of its seizure till its production before the competent authority and subsequent dispatch to the Forensic Science Laboratory. Though reliance has been placed upon the seizure memo (Ex. P/22), sample seal memorandum (Ex. P/23), the Malkhana Register entries (Ex. P/31 and Ex. P/32), the forwarding letter to the Forensic Science Laboratory (Ex. P/52) and the chemical examination report (Ex. P/55), the prosecution has failed to establish an unbroken chain of custody so as to eliminate every possibility of tampering with the seized articles. It is, therefore, argued that the entire prosecution case stands vitiated. She further submitted that the Investigating Officer himself admitted during his deposition before the learned Trial Court that



photographs of the inventory proceedings were not taken. It is contended that such omission assumes significance in view of the mandatory safeguards envisaged under Section 52-A of the NDPS Act relating to inventory, sampling and certification by the Magistrate. It is also pointed out that whereas the prosecution case is that 140 kilograms of ganja was allegedly seized from the vehicle, during the inventory proceedings the quantity was found to be only 137.930 kilograms, which creates a serious and unexplained discrepancy in the prosecution case. According to the learned counsel, the prosecution has offered no satisfactory explanation for the variation in weight, thereby rendering the alleged recovery itself doubtful.

19. It is contended by Ms. Khan that the prosecution has failed to establish strict compliance with the mandatory provisions of the NDPS Act. It is argued that the mandatory requirements contained in Sections 42, 50, 52 and 52-A of the Act have not been complied with in their true letter and spirit. Though the prosecution has relied upon the written information regarding receipt of secret information (Ex. P/6), the memorandum regarding inability to obtain a search warrant (Ex. P/7), the notices issued under Section 50 of the NDPS Act (Ex. P/13 to Ex. P/15), the inventory proceedings and the subsequent correspondence with the Special Court (Ex. P/49 to Ex. P/54), the evidence led by the prosecution is insufficient to establish due compliance with the mandatory statutory safeguards. It is



submitted that no valid inventory of the seized contraband was prepared and duly certified by the Magistrate in the manner contemplated under law and, therefore, the entire prosecution case stands vitiated. She further contended that the prosecution has completely failed to prove compliance with the provisions of Section 42 of the NDPS Act relating to recording and forwarding of the secret information to the superior officer in the manner required by law. It is submitted that the evidence adduced by the prosecution falls short of proving complete compliance with the statutory mandate, thereby vitiating the search and seizure proceedings.

- 20.** Lastly, it is submitted by Ms. Khan that the learned Trial Court has overlooked the fact that none of the independent witnesses has supported the prosecution case and that the conviction has been recorded solely on the basis of the evidence of police officials. In the absence of reliable corroboration from independent witnesses and in view of the various procedural lapses, material contradictions and unexplained discrepancies in the prosecution case, the appellants were entitled to the benefit of doubt. It is, therefore, prayed that the impugned judgment of conviction and order of sentence be set aside and the appellant be acquitted of the charge levelled against him.
- 21.** Per contra, Mr. Samir Singh, learned Deputy Advocate General appearing for the respondent/State, vehemently opposed the



submissions advanced by the learned counsel for the appellants in both the appeals and supported the impugned judgment of conviction and order of sentence. He submitted that the learned Trial Court has meticulously appreciated the entire oral and documentary evidence available on record and has rightly recorded the finding of guilt against the appellants. According to the learned State counsel, the impugned judgment is based on proper appreciation of evidence and does not suffer from any illegality, perversity or infirmity warranting interference by this Court in exercise of appellate jurisdiction.

- 22.** Mr. Singh further submitted that the prosecution has successfully established that on the basis of a reliable secret information, the police party intercepted the vehicle in question and recovered 140 kilograms of ganja, which is a commercial quantity, from the conscious and joint possession of the appellants. He submitted that the entire search and seizure proceedings were conducted in the presence of independent witnesses and after due compliance with the mandatory procedural safeguards prescribed under the NDPS Act. The prosecution has proved the written information regarding receipt of secret information (Ex. P/6), the memorandum recording inability to obtain a search warrant (Ex. P/7), the informer information panchnama (Ex. P/8), the notices issued under Section 50 of the NDPS Act (Ex. P/13 to Ex. P/15), the search and seizure panchnamas (Ex. P/17 and Ex. P/18), the seizure memo (Ex. P/22), the arrest memos (Ex. P/24 to Ex.



P/26), as well as the subsequent reports submitted to the superior officers, thereby establishing due compliance with the statutory requirements. He also submitted that merely because the independent witnesses did not fully support the prosecution case, the otherwise reliable testimony of the official witnesses cannot be discarded. It is contended that there is no rule of law that the evidence of police personnel is inherently unreliable or requires corroboration in every case. The evidence of the police witnesses, particularly that of the Investigating Officer Vishnu Prasad Yadav (PW-10), finds due corroboration from the contemporaneous documentary evidence proved on record and inspires complete confidence. It is submitted that the learned Trial Court has rightly relied upon their testimonies after finding them to be trustworthy and credible.

- 23.** Mr. Singh submitted that the prosecution has successfully established the chain of custody of the seized contraband. The seized ganja was duly weighed, sealed, deposited in the Malkhana, and thereafter sent for chemical examination in accordance with law. The prosecution has proved the relevant Malkhana register entries (Ex. P/31 and Ex. P/32), the correspondence relating to inventory and sampling under Section 52-A of the NDPS Act (Ex. P/49 to Ex. P/54), and the report of the Regional Forensic Science Laboratory (Ex. P/55), which conclusively establishes that the sample sent for examination was found to be ganja. Thus, according to the learned State



counsel, the prosecution has established an unbroken chain of custody leaving no scope for any allegation of tampering. It is further submitted that the alleged contradictions and omissions pointed out by the appellants are insignificant in nature and do not go to the root of the prosecution case. According to the learned State counsel, the evidence of the prosecution witnesses, when read as a whole, consistently establishes the recovery of commercial quantity of ganja from the vehicle occupied by the appellants. Minor discrepancies, if any, are natural and do not affect the substratum of the prosecution case. The learned Trial Court has, therefore, rightly rejected the defence contentions.

- 24.** Lastly, Mr. Singh submitted that the prosecution has proved the guilt of the appellants beyond all reasonable doubt and that the learned Trial Court has recorded well-reasoned findings based upon proper appreciation of the oral and documentary evidence. Since the appellants have failed to demonstrate any perversity, illegality or material irregularity in the impugned judgment, no interference is called for by this Court. It is, therefore, prayed that both the criminal appeals, being devoid of merit, deserve to be dismissed and the judgment of conviction and order of sentence passed by the learned Trial Court be affirmed.
- 25.** We have heard learned counsel for the parties at considerable length and have also carefully perused the entire record of the case, including the impugned judgment, oral and documentary



evidence adduced before the learned Trial Court, as well as the material placed on record in the present appeal.

- 26.** After hearing learned counsel for the parties at length, perusing the record of the case and carefully examining the evidence available on record, the following point arises for determination in the present appeal:

"Whether the prosecution has been able to establish beyond reasonable doubt that on 24.03.2019, on National Highway No. 30 near the CRPF Camp at Kamanar, within the jurisdiction of Police Station Darbha, District Bastar (C.G.), the appellants, namely, Baidyanath Manjhi, Mokarand Dhurva and Gopal Nayak, were found in conscious and joint possession of 140 kilograms of ganja, a commercial quantity of contraband, allegedly recovered from the dickey and middle portion of the Maruti Suzuki 800 car in which they were travelling, in contravention of the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985 and the Rules, Orders or licence conditions framed thereunder, thereby committing an offence punishable under Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985?"

- 27.** At this stage, it would also be apposite to examine the applicability of the provisions contained under Section 43 of the Narcotic Drugs and Psychotropic Substances Act, 1985, which deals with the powers of seizure and arrest in a public place. Section 43 of the NDPS Act confers authority upon officers



empowered under Section 42 of the Act to seize any narcotic drug, psychotropic substance or controlled substance in any public place or while the same is in transit, if the officer has reason to believe that an offence punishable under the Act has been committed. The said provision further authorises the officer to detain and search any person whom he has reason to believe to have committed such offence and, if such person is found to be in unlawful possession of any narcotic drug or psychotropic substance, to arrest him. The explanation appended to Section 43 clarifies that the expression “public place” includes any public conveyance, hotel, shop or any other place intended for use by, or accessible to, the public at large. Section 43 of the NDPS Act provides the powers of seizure and arrest in public place which reads as under:

“43. Power of seizure and arrest in public place- Any officer of any of the departments mentioned in section 42 may:-

(a) seize in any public place or in transit, any narcotic drug or psychotropic substance or controlled substance in respect of which he has reason to believe an offence punishable under this Act has been committed, and, along with such drug or substance, any animal or conveyance or article liable to confiscation under this Act, any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act;



(b) detain and search any person whom he has reason to believe to have committed an offence punishable under this Act, and if such person has any narcotic drug or psychotropic substance or controlled substance in his possession and such possession appears to him to be unlawful, arrest him and any other person in his company.

Explanation- For the purposes of this section, the expression "public place" includes any public conveyance, hotel, shop, or other place intended for use by, or accessible to, the public."

28. In the matter of ***Firdoskhan Khurshidkhan v. State of Gujarat and Another, 2024 SCC OnLine SC 680***, the Hon'ble Supreme Court while considering the issue regarding Section 42 of the NDPS Act, has held in paragraph 18, which reads as under :-

"18. Section 42 of the NDPS Act deals with search and seizure from a building, conveyance or enclosed place. When the search and seizure is effected from a public place, the provisions of Section 43 of the NDPS Act would apply and hence, there is no merit in the contention of learned counsel for the appellants that non-compliance of the requirement of Section 42(2) vitiates the search and seizure. Hence, the said contention is noted to be rejected."

29. Further, the Hon'ble Supreme Court in the matter of ***State of Haryana v. Jarnail Singh and Others, 2004 (5) SCC 188*** has held in paragraphs 9 and 10 of its judgment by observing as follows :-

"9. Sections 42 and 43, therefore, contemplate two different situations. Section 42



contemplates entry into and search of any building, conveyance or enclosed place, while Section 43 contemplates a seizure made in any public place or in transit. If seizure is made under Section 42 between sunset and sunrise, the requirement of the proviso thereto has to be complied with. There is no such proviso in Section 43 of the Act and, therefore, it is obvious that if a public conveyance is searched in a public place, the officer making the search is not required to record his satisfaction as contemplated by the proviso to Section 42 of the NDPS Act for searching the vehicle between sunset and the sunrise.

*10. In the instant case there is no dispute that the tanker was moving on the public highway when it was stopped and searched. Section 43 therefore clearly applied to the facts of this case. Such being the factual position there was no requirement of the officer conducting the search to record the grounds of his belief as contemplated by the proviso to Section 42. Moreover it cannot be lost sight of that the Superintendent of Police was also a member of the searching party. It has been held by this Court in *M. Prabhulal vs. Assistant Director, Directorate of Revenue Intelligence* : (2003) 8 SCC 449 that where a search is conducted by a gazetted officer himself acting under Section 41 of the NDPS Act, it was not necessary to comply with the requirement of Section 42. For this reason also, in the facts of this case, it was not necessary to comply with the requirement of the proviso to Section 42 of the NDPS Act."*

30. In the matter of ***Kallu Khan vs. State of Rajasthan, 2021 (19)***

SCC 197, the Hon'ble Supreme Court has held as under :-

"12. After hearing and on perusal of record and the evidence brought, it is apparent that on apprehending the accused, while making search of the motor cycle, 900 gm of smack



was seized to which seizure and sample memos were prepared, as proved by the departmental witnesses. In the facts of the case at hand, where the search and seizure was made from the vehicle used, by way of chance recovery from public road, the provisions of Section 43 of the NDPS Act would apply. In this regard, the guidance may be taken from the judgments of this Court in S. K. Raju (supra) and S.K. Sakkar (supra). However, the recovery made by Pranveer Singh (PW6) cannot be doubted in the facts of this case.

13. Now reverting to the contention that the motor cycle seized in commission of offence does not belong to accused, however seizure of the contraband from the motor cycle cannot be connected to prove the guilt of accused. The Trial Court on appraisal of the testimony of witnesses, Constable Preetam Singh (PW1), Constable Sardar Singh (PW2), S.I. Pranveer Singh (PW6) and Constable Rajendra Prasad (PW8), who were members of the patrolling team and the witnesses of the seizure, proved beyond reasonable doubt, when they were on patrolling, the appellant came driving the seized vehicle from opposite side. On seeing the police vehicle, he had taken back the motor cycle which he was riding. However, the police team apprehended and intercepted the accused and made the search of vehicle, in which the seized contraband smack was found beneath the seat of the vehicle. However, while making search at public place, the contraband was seized from the motor cycle driven by the accused. Thus, recovery of the contraband from the motor cycle of the appellant was a chance recovery on a public road. As per Section 43 of NDPS Act, any officer of any of the departments, specified in Section 42, is having power of seizure and arrest of the accused from a public place, or in transit of any narcotic drug or psychotropic substance or



controlled substance. The said officer may detain in search any person whom he has reason to believe that he has committed an offence punishable under the provisions of the NDPS Act, in case the possession of the narcotic drug or psychotropic substance appears to be unlawful. Learned senior counsel representing the appellant is unable to show any deficiency in following the procedure or perversity to the findings recorded by the Trial Court, affirmed by the High Court. The seizure of the motor cycle from him is proved beyond reasonable doubt, therefore, the question of ownership of vehicle is not relevant. In the similar set of facts, in the case of Rizwan Khan (supra), this Court observed the ownership of the vehicle is immaterial. Therefore, the argument as advanced by learned senior counsel is of no substance and meritless."

31. Reverting to the facts of the present case in the light of the aforesaid principles laid down by the Hon'ble Supreme Court, it is evident that the alleged recovery of the contraband was effected from a Maruti Suzuki 800 car, without a registration number plate, which was intercepted by the police party on National Highway No.30 near the CRPF Camp at Kamanar, within the jurisdiction of Police Station Darbha, District Bastar.
32. Admittedly, the recovery was not effected from any building, enclosed place or private premises but from a vehicle intercepted on a public road, which is a public place within the meaning of Section 43 of the NDPS Act. The prosecution case itself is that the appellants were travelling in the said vehicle when it was intercepted and, upon search, twelve packets containing ganja were recovered from the dickey as well as the middle portion of



the vehicle. Therefore, the search and seizure having been conducted at a public place, the provisions contained in Section 43 of the NDPS Act are attracted and not those contained in Section 42 of the Act. Consequently, the principal contention advanced on behalf of the appellants regarding non-compliance of Section 42 of the NDPS Act is liable to be rejected.

- 33.** Even otherwise, the evidence on record clearly establishes that prior to proceeding for the search operation, the Investigating Officer, Vishnu Prasad Yadav (PW-10), had reduced the secret information into writing and had taken all necessary steps as contemplated under the NDPS Act. The written information regarding receipt of the secret information (Ex. P/6), the memorandum recording the grounds for conducting search without obtaining a warrant (Ex. P/7) and the informer's information panchnama (Ex. P/8) were prepared contemporaneously.
- 34.** The prosecution has further proved that copies thereof were forwarded through Constable Shridhar Pujari (PW-1) to the office of the Sub-Divisional Officer of Police, Keshlur, and the corresponding entries acknowledging receipt of the said documents have also been proved on record. Thus, the prosecution has satisfactorily established that the information received by PW-10 was duly reduced into writing and communicated to the superior officer before the search and



seizure proceedings were undertaken. Hence, even assuming that the provisions of Section 42 were applicable, the evidence on record sufficiently demonstrates substantial compliance thereof.

- 35.** The next question which arises for consideration is whether the prosecution has succeeded in proving the recovery and seizure of the contraband from the conscious and joint possession of the appellants. It is true that the independent witnesses, namely, Dilip Kumar Nag (PW-4) and Kamal Yadav (PW-7), have not fully supported the prosecution case on all material particulars. However, it is by now well settled that merely because independent witnesses have turned hostile or have not supported the prosecution in its entirety, the evidence of official witnesses cannot be discarded solely on that ground. If the testimony of the police officials is found to be trustworthy, cogent and reliable, the same can safely form the basis of conviction. There is no legal principle that the testimony of official witnesses requires independent corroboration in every case.
- 36.** In the present case, the evidence of the Investigating Officer Vishnu Prasad Yadav (PW-10), who conducted the search, seizure and investigation, receives substantial corroboration from the evidence of Shridhar Pujari (PW-1), Omkar Patra (PW-2), Ajay Kumar Sahu (PW-5), Rajesh Sinha (PW-6), Praveen Kumar Joshi (PW-8) and Lalji Sinha (PW-9), besides the contemporaneous documentary evidence prepared during the



course of investigation. The search panchnama (Ex. P/17), recovery panchnama (Ex. P/18), identification memorandum (Ex. P/19), weighment memorandum (Ex. P/21), seizure memo (Ex. P/22), sample seal memorandum (Ex. P/23), arrest memos (Ex. P/24 to Ex. P/26) and the other contemporaneous documents lend complete assurance to the prosecution version. Nothing substantial has been elicited during the cross-examination of these witnesses to suggest that they were actuated by any ill-will or ulterior motive to falsely implicate the appellants in a serious offence under the NDPS Act. Their evidence on material particulars has remained consistent, natural and inspires confidence.

- 37.** The evidence further reveals that during the search of the Maruti Suzuki 800 car, twelve packets containing suspected ganja were recovered from the dickey as well as the middle portion of the vehicle occupied by the appellants. The contraband was weighed on an electronic weighing machine after its verification by Head Constable Ajay Kumar Sahu (PW-5), and the total weight of the recovered contraband was found to be 140 kilograms, which is admittedly a commercial quantity. Thereafter, the contraband was seized under the seizure memo (Ex. P/22), representative samples were drawn and sealed in accordance with the prescribed procedure, and the remaining contraband was also duly sealed at the spot. The appellants have not been able to point out any material contradiction or discrepancy in the



prosecution evidence so far as the actual recovery of the contraband from the vehicle is concerned.

- 38.** The prosecution has also successfully established the safe custody of the seized contraband and the chain of custody till its examination by the Forensic Science Laboratory. The seized articles were deposited in the Malkhana immediately after seizure and the relevant Malkhana register entries have been duly proved. Subsequently, proceedings under Section 52-A of the NDPS Act were undertaken before the competent Court, representative samples were drawn and duly sealed, and the samples were thereafter forwarded to the Regional Forensic Science Laboratory, Jagdalpur for chemical examination. The FSL report (Ex. P/55) unequivocally confirms that the sample sent for examination was ganja (cannabis). The defence has failed to establish any missing link in the chain of custody or any circumstance giving rise to a reasonable apprehension of tampering with the seized contraband or the representative samples.
- 39.** The contention advanced on behalf of the appellants regarding non-compliance of Section 50 of the NDPS Act also does not merit acceptance. In the present case, the recovery of the contraband was not effected from the personal search of any of the appellants but from the Maruti Suzuki 800 car in which they were travelling. The alleged contraband was recovered from the



dickey and the middle portion of the vehicle and not from the person of the appellants. Therefore, the mandatory requirement of Section 50 of the NDPS Act relating to personal search is not attracted. Nevertheless, the prosecution has proved on record that notices under Section 50 of the NDPS Act (Ex. P/13, Ex. P/14 and Ex. P/15) were served upon all the appellants before the search was conducted. Thus, even by way of abundant caution, the investigating agency had informed the appellants of their legal rights, and no prejudice whatsoever can be said to have been caused to them.

40. It is well settled by a catena of decisions of the Hon'ble Supreme Court that the provisions of Section 50 of the NDPS Act are attracted only in cases involving personal search of a person and not in cases where recovery is made from a vehicle, container, bag or other article. Therefore, the alleged non-compliance of Section 50 does not render the recovery illegal. The legal position in this regard has been authoritatively settled by the Supreme Court. In ***Madan Lal v. State of Himachal Pradesh, (2003) 7 SCC 465***, the Supreme Court has explained the concept of possession under the NDPS Act and has held that once possession of a contraband article is established, the burden shifts upon the accused to explain that such possession was not conscious and held as under :-

"16. A bare reading of Section 50 shows that it only applies in case of personal search of a



person. It does not extend to search of a vehicle or a container or a bag, or premises. (See *Kalema Tumba v. State of Maharashtra and Anr.* (JT 1999 (8) SC 293), *The State of Punjab v. Baldev Singh* (JT 1999 (4) SC 595), *Gurbax Singh v. State of Haryana* (2001(3) SCC 28). The language of Section 50 is implicitly clear that the search has to be in relation to a person as contrasted to search of premises, vehicles or articles. This position was settled beyond doubt by the Constitution Bench in *Baldev Singh's* case (*supra*). Above being the position, the contention regarding non-compliance of Section 50 of the Act is also without any substance.

21. It is highlighted that unless the possession was coupled with requisite mental element, i.e. conscious possession and not mere custody without awareness of the nature of such possession, Section 20 is not attracted.

22. The expression 'possession' is a polymorphous term which assumes different colours in different contexts. It may carry different meanings in contextually different backgrounds. It is impossible, as was observed in *Superintendent & Remembrancer of Legal Affairs, West Bengal v. Anil Kumar Bhunja and Ors.* (AIR 1980 SC 52), to work out a completely logical and precise definition of "possession" uniformly applicable to all situations in the context of all statutes.

23. The word 'conscious' means awareness about a particular fact. It is a state of mind which is deliberate or intended.

24. As noted in *Gunwantlal v. The State of M.P.* (AIR 1972 SC 1756) possession in a given case need not be physical possession but can be constructive, having power and control over the article in case in question, while the person whom physical possession is given holds it subject to that power or control.

25. The word 'possession' means the legal right



to possession (See Health v. Drown (1972) (2) All ER 561 (HL). In an interesting case it was observed that where a person keeps his fire arm in his mother's flat which is safer than his own home, he must be considered to be in possession of the same. (See Sullivan v. Earl of Caithness (1976 (1) All ER 844 (QBD).

26. 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. Similar is the position in terms of Section 54 where also presumption is available to be drawn from possession of illicit articles”

41. Similarly, in **State of Himachal Pradesh v. Pawan Kumar, (2005) 4 SCC 350**, it has been held that the search of a bag, briefcase or container carried by the accused cannot be treated as a personal search and therefore the provisions of Section 50 would not apply in such a situation and observed as under :-

“11. A bag, briefcase or any such article or container, etc. can, under no circumstances, be treated as body of a human being. They are given a separate name and are identifiable as such. They cannot even remotely be treated to be part of the body of a human being. Depending upon the physical capacity of a person, he may carry any number of items like a bag, a briefcase, a suitcase, a tin box, a thaila, a jhola, a gathri, a holdall, a carton, etc. of varying size, dimension or weight. However, while carrying or moving along with them, some extra effort or energy would be required. They would have to be carried either by the hand or hung on the shoulder or back or placed on the head. In common parlance it would be said that



a person is carrying a particular article, specifying the manner in which it was carried like hand, shoulder, back or head, etc. Therefore, it is not possible to include these articles within the ambit of the word "person" occurring in Section 50 of the Act.

12. An incriminating article can be kept concealed in the body or clothings or coverings in different manner or in the footwear. While making a search of such type of articles, which have been kept so concealed, it will certainly come within the ambit of the word "search of person". One of the tests, which can be applied is, where in the process of search the human body comes into contact or shall have to be touched by the person carrying out the search, it will be search of a person. Some indication of this is provided by Sub-section (4) of Section 50 of the Act, which provides that no female shall be searched by anyone excepting a female. The legislature has consciously made this provision as while conducting search of a female, her body may come in contact or may need to be touched and, therefore, it should be done only by a female. In the case of a bag, briefcase or any such article or container, etc., they would not normally move along with the body of the human being unless some extra or special effort is made. Either they have to be carried in hand or hung on the shoulder or back or placed on the head. They can be easily and in no time placed away from the body of the carrier. In order to make a search of such type of objects, the body of the carrier will not come in contact of the person conducting the search. Such objects cannot be said to be inextricably connected with the person, namely, the body of the human being. Inextricable means incapable of being disentangled or untied or forming a maze or tangle from which it is impossible to get free.

13. The scope and ambit of Section 50 of the Act was examined in considerable detail by a



Constitution Bench in State of Punjab v. Baldev Singh 1999 (6) SCC 172 and para 12 of the reports is being reproduced below :

"12. On its plain reading, Section 50 would come into play only in the case of a search of a person as distinguished from search of any premises etc. However, if the empowered officer, without any prior information as contemplated by Section 42 of the Act makes a search or causes arrest of a person during the normal course of investigation into an offence or suspected offence and on completion of that search, a contraband under the NDPS Act is also recovered, the requirements of Section 50 of the Act are not attracted."

The Bench recorded its conclusion in para 57 of the reports and sub- paras (1), (2), (3) and (6) are being reproduced below :

"57. On the basis of the reasoning and discussion above, the following conclusions arise: (1) That when an empowered officer or a duly authorized officer acting on prior information is about to search a person, it is imperative for him to inform the person concerned of his right under sub-section (1) of Section 50 of being taken to the nearest gazetted officer or the nearest Magistrate for making the search. However, such information may not necessarily be in writing.

(2) That failure to inform the person concerned about the existence of his right to be searched before a gazetted officer or a Magistrate would cause prejudice to an accused.

(3) That a search made by an empowered officer, on prior information, without informing the person of his right that if he so requires, he shall be taken before a gazetted officer or a Magistrate for search and in case he so opts, failure to conduct his search before a gazetted officer or a Magistrate may not vitiate the trial but would render the recovery



of the illicit article suspect and vitiate the conviction and sentence of an accused, where the conviction has been recorded only on the basis of the possession of the illicit article, recovered from his person, during a search conducted in violation of the provisions of Section 50 of the Act.

(6) That in the context in which the protection has been incorporated in Section 50 for the benefit of the person intended to be searched, we do not express any opinion whether the provisions of Section 50 are mandatory or directory, but hold that failure to inform the person concerned of his right as emanating from sub-section (1) of Section 50, may render the recovery of the contraband suspect and the conviction and sentence of an accused bad and unsustainable in law."

14. The above quoted dictum of the Constitution Bench shows that the provisions of Section 50 will come into play only in the case of personal search of the accused and not of some baggage like a bag, article or container, etc. which he may be carrying."

42. The same principle has been reiterated in ***Ajmer Singh v. State of Haryana, (2010) 3 SCC 746***, wherein the Supreme Court held that recovery of contraband from a bag carried by the accused does not amount to personal search of the accused. The Supreme Court has again reiterated the said principle in ***Arif Khan @ Agha Khan v. State of Uttarakhand, (2018) 18 SCC 380*** and ***Baljinder Singh v. State of Punjab, (2019) 10 SCC 473***, holding that the requirement of informing the accused of his right under Section 50 arises only in cases of personal body search and not when the recovery is made from a bag, container



or other article carried by the accused. In such circumstances, the search is treated as search of an article and not of the person of the accused. The Supreme Court has held as follows :-

"13. The law is thus well settled that an illicit Article seized from the person during personal search conducted in violation of the safeguards provided in Section 50 of the Act cannot by itself be used as admissible evidence of proof of unlawful possession of contra-band. But the question is, if there be any other material or Article recovered during the investigation, would the infraction with respect to personal search also affect the qualitative value of the other material circumstance ?

14. At this stage we may also consider following observations from the decision of this Court in Ajmer Singh v. State of Haryana [(2010) 3 SCC 746]:

"15. The learned Counsel for the Appellant contended that the provision of Section 50 of the Act would also apply, while searching the bag, briefcase, etc. carried by the person and its non-compliance would be fatal to the proceedings initiated under the Act. We find no merit in the contention of the learned Counsel. It requires to be noticed that the question of compliance or non-compliance with Section 50 of the NDPS Act is relevant only where search of a person is involved and the said Section is not applicable nor attracted where no search of a person is involved. Search and recovery from a bag, briefcase, container, etc. does not come within the ambit of Section 50 of the NDPS Act, because firstly, Section 50 expressly speaks of search of person only. Secondly, the Section speaks of taking of the person to be searched by the gazetted officer or a Magistrate for the purpose of search. Thirdly, this issue in our considered opinion is no



more res Integra in view of the observations made by this Court in Madan Lal v. State of H.P. [(2003) 7 SCC 465]. The Court has observed: (SCC p. 471, para 16)

16. A bare reading of Section 50 shows that it only applies in case of personal search of a person. It does not extend to search of a vehicle or a container or a bag or premises (see Kalema Tumba v. State of Maharashtra [(1999) 8 SCC 257], State of Punjab v. Baldev Singh-[(1999) 6 SCC 172] and Gurbax Singh v. State of Haryana [(2001) 3 SCC 28]). The language of Section 50 is implicitly clear that the search has to be in relation to a person as contrasted to search of premises, vehicles or articles. This position was settled beyond doubt by the Constitution Bench in Baldev Singh case (1999) 6 SCC 172 Above being the position, the contention regarding non-compliance with Section 50 of the Act is also without any substance."

15. As regards applicability of the requirements Under Section 50 of the Act are 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.

16. The conclusion (3) as recorded by the Constitution Bench in Para 57 of its judgment in Baldev Singh clearly states that the conviction may not be based "only" on the basis of possession of an illicit Article recovered from personal search in violation of the requirements Under Section 50 of the Act but if there be other evidence on record, such material can certainly be looked into."

- 43.** Reverting to the facts of the present case in the light of the aforesaid settled principles of law laid down by the Hon'ble Supreme Court, this Court finds no substance in the contention



advanced on behalf of the appellants regarding alleged non-compliance of Section 50 of the NDPS Act. A careful scrutiny of the prosecution evidence reveals that the alleged recovery of the contraband was not effected from the personal search of any of the appellants. The prosecution case consistently is that on the basis of a secret information, the police party intercepted a Maruti Suzuki 800 car without a registration number plate on National Highway No.30 near the CRPF Camp at Kamanar, within the jurisdiction of Police Station Darbha, District Bastar. Upon search of the said vehicle, twelve packets containing contraband ganja were recovered from the dickey as well as the middle portion of the vehicle. Thus, the recovery in the present case was from a conveyance in which the appellants were travelling and not from their physical person.

- 44.** The testimony of Vishnu Prasad Yadav (PW-10), the Investigating Officer, duly corroborated by the evidence of Shridhar Pujari (PW-1), Omkar Patra (PW-2), Ajay Kumar Sahu (PW-5), Rajesh Sinha (PW-6), Praveen Kumar Joshi (PW-8) and Lalji Sinha (PW-9), coupled with the contemporaneous documentary evidence, clearly establishes that the contraband was recovered from the Maruti Suzuki 800 car occupied by the appellants. The search panchnama (Ex. P/17), recovery panchnama (Ex. P/18), identification memorandum (Ex. P/19), weighment memorandum (Ex. P/21), seizure memo (Ex. P/22), sample seal memorandum



(Ex. P/23) and the arrest memos (Ex. P/24 to Ex. P/26) fully corroborate the oral testimony of the prosecution witnesses. Though notices under Section 50 of the NDPS Act (Ex. P/13 to Ex. P/15) were served upon the appellants before conducting the search, the prosecution case nowhere suggests that any narcotic substance was recovered from their personal search.

- 45.** It is well settled by a catena of decisions of the Hon'ble Supreme Court that the safeguard contemplated under Section 50 of the NDPS Act is attracted only when the search is of the person of the accused and not when the recovery is effected from a vehicle, container, bag or any other article or conveyance. Since the recovery in the present case was effected from the dickey and the middle portion of the Maruti Suzuki 800 car and not from the personal search of any of the appellants, the provisions of Section 50 of the NDPS Act are not attracted to the facts of the present case. Consequently, the argument advanced on behalf of the appellants on the alleged violation of Section 50 of the NDPS Act deserves to be rejected.
- 46.** Equally untenable is the contention regarding non-compliance of Section 42 of the NDPS Act. As already noticed, the search and seizure were conducted on National Highway No.30, a public road, after intercepting the vehicle in question. Therefore, the search falls within the ambit of Section 43 of the NDPS Act. Even otherwise, the prosecution has proved that immediately upon



receipt of the secret information, Vishnu Prasad Yadav (PW-10) reduced the information into writing vide Ex. P/6, prepared the memorandum Ex. P/7 and informer information panchnama Ex. P/8, and transmitted the information to the superior officer through Constable Shridhar Pujari (PW-1). Thus, even assuming that Section 42 was applicable, the prosecution has satisfactorily established substantial compliance thereof.

- 47.** Having bestowed our anxious consideration to the rival submissions advanced by the learned counsel for the parties and upon re-appreciation of the entire oral and documentary evidence available on record, this Court finds no reason to differ from the conclusions arrived at by the learned Trial Court. The prosecution evidence, when appreciated as a whole, clearly establishes that the appellants were travelling together in the Maruti Suzuki 800 car from which 140 kilograms of ganja, a commercial quantity, was recovered. The recovery stands proved by the cogent, consistent and trustworthy evidence of the official witnesses, which is duly corroborated by the contemporaneous documentary evidence prepared during the course of investigation.
- 48.** The prosecution has also been successful in establishing the complete chain of events commencing from receipt of the secret information, constitution of the police party, interception of the vehicle, search and seizure of the contraband, preparation of the necessary panchnamas, weighment and sealing of the seized



contraband, deposit of the seized articles in the Malkhana, drawing of representative samples under the proceedings contemplated by Section 52-A of the NDPS Act and forwarding of the samples to the Regional Forensic Science Laboratory. The FSL report (Ex. P/55) unequivocally confirms that the representative sample sent for examination was ganja. The defence has not been able to establish any break in the chain of custody or any circumstance creating a reasonable doubt regarding the identity or integrity of the seized contraband.

- 49.** Much emphasis has been laid by the learned counsel for the appellants on the fact that the independent witnesses, namely, Dilip Kumar Nag (PW-4) and Kamal Yadav (PW-7), did not fully support the prosecution case. In the opinion of this Court, the said circumstance, by itself, is insufficient to discard the otherwise reliable prosecution evidence. It is now a settled principle of criminal jurisprudence that conviction can be based upon the testimony of official witnesses if the Court finds their evidence to be trustworthy and free from material infirmities. In the present case, nothing substantial has been elicited in the cross-examination of the prosecution witnesses to establish any motive for false implication of the appellants. Their evidence on all material particulars remains consistent and inspires confidence.
- 50.** Equally devoid of merit is the contention regarding the alleged discrepancy in the quantity of the contraband during the inventory



proceedings and the alleged absence of photographs of the inventory proceedings. The representative samples were drawn under the orders of the competent Court in accordance with Section 52-A of the NDPS Act and thereafter forwarded for forensic examination. The FSL report confirms the seized substance to be ganja. No material prejudice has been demonstrated to have been caused to the appellants on account of the alleged procedural irregularities, nor has the defence established that the seized contraband was tampered with at any stage of the investigation. The integrity of the seized articles has remained intact throughout.

- 51.** The learned Trial Court has meticulously examined the oral as well as documentary evidence available on record and has assigned cogent, convincing and legally sustainable reasons while recording the finding of guilt against the appellants. This Court does not find any perversity, misreading of evidence, material irregularity or error of law in the appreciation of evidence undertaken by the learned Trial Court warranting interference in the present appeals. The findings recorded by the learned Trial Court are fully supported by the evidence on record and are in consonance with the settled principles governing prosecutions under the NDPS Act.
- 52.** The prosecution having successfully established the foundational facts regarding the recovery of 140 kilograms of ganja, a



commercial quantity, from the vehicle occupied by the appellants, the statutory presumptions under Sections 35 and 54 of the NDPS Act stand attracted. The appellants have failed to rebut the said presumptions either by leading defence evidence or by eliciting any material circumstance during the cross-examination of the prosecution witnesses so as to probabalise their innocence. In the absence of any plausible explanation regarding their possession of the contraband, the finding recorded by the learned Trial Court that the appellants were in conscious and joint possession of the seized contraband cannot be faulted.

- 53.** In view of the foregoing discussion, this Court is of the considered opinion that the prosecution has proved beyond all reasonable doubt that the appellants were found in conscious and joint possession of 140 kilograms of ganja, a commercial quantity, recovered from the Maruti Suzuki 800 car intercepted on National Highway No.30 near the CRPF Camp at Kamanar, in contravention of the provisions of the NDPS Act.
- 54.** The learned Special Judge has rightly held the appellants guilty of the offence punishable under Section 20(b)(ii)(C) of the NDPS Act. The judgment of conviction and order of sentence dated 12.11.2025 do not suffer from any legal infirmity, perversity or material irregularity warranting interference by this Court in exercise of appellate jurisdiction.



- 55.** For the reasons recorded hereinabove, this Court is of the considered opinion that the prosecution has succeeded in proving the charge against the appellants beyond all reasonable doubt. The findings recorded by the learned Special Judge (NDPS Act), Bastar at Jagdalpur are based on proper appreciation of the oral as well as documentary evidence available on record and do not suffer from any perversity, illegality or material irregularity warranting interference by this Court in exercise of its appellate jurisdiction. Accordingly, the conviction of the appellants for the offence punishable under Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and the sentence imposed upon them are hereby affirmed.
- 56.** Consequently, **Criminal Appeal No.307 of 2026 preferred by appellants Baidyanath Manjhi and Mokarand Dhurva and Criminal Appeal No.853 of 2026 preferred by appellant Gopal Nayak**, being devoid of merit, are hereby **dismissed**. The appellants are reported to be in custody. They shall continue to undergo the sentence awarded to them by the learned Trial Court.
- 57.** Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail, where the appellants are undergoing their jail sentence to serve the same on the appellants informing them that they are at liberty to assail the present judgment passed by this Court by preferring the



appeal(s) before the Hon'ble Supreme Court with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.

- 58.** Let a copy of this judgment and the original records be transmitted to the Trial Court concerned forthwith for necessary information and compliance.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Anu