



CRA-AS-67-2022 (O&M)

-1-

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

266

**CRA-AS-67-2022 (O&M)
Date of decision : 20.04.2026**

STATE OF U.T. CHANDIGARH

... APPELLANT

Versus

SONU GOYAL

.. RESPONDENT

CORAM : HON'BLE MR. JUSTICE H.S.GREWAL

Present:- Mr. Jasbir Singh, Advocate for
Mr. J.S. Toor, Senior Advocate
for the appellant-UT, Chandigarh.

None for the respondent despite service.

H.S. Grewal, J.(Oral)

1. This appeal has been preferred by the State of UT, Chandigarh seeking enhancement of sentence imposed upon the respondent-accused by learned Judge, Special Court, Chandigarh vide the judgment of conviction and order of sentence dated 10.01.2020 and 14.01.2020 respectively in case FIR No.136 dated 08.06.2019, registered under Section 21 of the NDPS Act, at Police Station Sector 34, Chandigarh whereby the respondent/accused had been convicted for an offence under Section 21 (b) of the NDPS Act and sentenced him to undergo the rigorous imprisonment for a period of 07 months, to pay a fine of Rs.5,000/- and in default thereof, to undergo further RI for 01 month.
2. The case of the prosecution is that on 07.06.2019 at about 10 PM, PW1 Inspector Juldan Singh (the then SI) was on patrolling duty along with

**CRA-AS-67-2022 (O&M)****-2-**

other police officials in a Govt. Vehicle No. CH01-GA-6813. At about 11.30 PM, the accused/respondent was seen coming from the light point of Sector 33/45, Chandigarh towards Dev Samaj College on foot. On seeing the police party he turned back and started walking briskly. On the basis of suspicion that the said person might be carrying some stolen articles or some weapon, the police party apprehended him. Thereafter, the accused/respondent took out one polythene from right pocket of his trouser and attempted to throw the same but he was caught hold and the polythene was recovered. Upon checking of the polythene, it was found containing white coloured substance looking like Heroin. The recovered substance was checked on drug detection kit and it was found positive for Heroin. Inspector Juldhan Singh weighed the Heroin on electronic weighing scale and it was found to be 7 grams. The parcel was prepared at the spot and sealed with seal of 'J' at one place. The seizure memo and the test memo form were prepared and seal after use was handed over to HC Bijender Singh. A ruqa in this regard was sent for registration of the FIR and at about 12.30 PM i.e midnight of 7/8.6.2019, a message to night Munshi PS-34, Chandigarh was sent for sending second Investigating Officer.

3. Thereafter, ASI Surya Parkash from Police Station Sector 34, Chandigarh came at the spot at about 01:00 AM to whom the respondent/accused, case property and the documents were handed over by Inspector Juldhan Singh. He arrested the accused and personally searched him. On the next date, ASI Surya Parkash and MMHC Baljinder Singh produced the case property before the Court of learned Area Magistrate for drawing of sample and certification of inventory. The parcel was opened and two samples

**CRA-AS-67-2022 (O&M)****-3-**

of 2 grams each were taken out, which were later sealed with seal 'SG' at one place separately and remaining 03 grams of contraband was also sealed with seal of 'SG' separately. The sample was sent to the CFSL Sector 36, Chandigarh for examination through Constable Amardeep on 11.06.2019.

4. After receipt of the report of CFSL, Chandigarh and on completion of investigation, challan against the accused/respondent was presented. Upon finding a *prima facie* case against the accused/respondent, charges were framed under Section 21 of the NDPS Act against him to which he pleaded not guilty and claimed trial.

5. In order to substantiate the charge against the accused/respondent, the prosecution had examined PW-1 Inspector Juldhan Singh who apprehended the accused/respondent at the spot. He deposed about the investigation at the spot, preparation of the parcel, sealing of the same and preparation of the documents at the spot including sending of ruqa and message for the sending of the second Investigating officer. He also deposed that he handed over the accused, the case property along with the documents Ex.P1 to Ex.P7 to ASI Surya Parkash.

6. PW-2 MMHC ASI Baljinder Singh deposed that he deposited the case property on 08.06.2019 at 02.51 AM which was sealed with seal of 'J' at one place and 'BK' at another place containing 7 grams of Heroin. He further deposed that he along with ASI Surya Parkash produced the accused/respondent and the case property before the Id. Area Magistrate for drawing of the samples and certification of the inventory. It is further deposed that the learned Area Magistrate opened the parcel and had drawn two samples

**CRA-AS-67-2022 (O&M)****-4-**

of 2 grams each and the parcels as well as the remaining contraband were sealed with the seal of the court 'SG' at one place each. He also deposed that on 11.6.2019, the sample was deposited through Constable Amardeep in the CFSL Sector 36, Chandigarh.

7. PW-3 ASI Surya Parkash, who is the second Investigating officer of the case, deposed that on getting message from night Munshi PS-34, Chandigarh at 12:48 AM, he reached at the spot, where 1st I.O SI Juldan Singh handed over the sealed parcel duly sealed with seal of 'J' at one place along with the sample seal, test memo form, recovery memo and handing over memo. He verified the facts and conducted personal search of the accused and also arrested him. On completion of investigation at the spot, he took the accused and the police party to Police Station Sector 34, Chandigarh and produced them before the SHO who verified the facts and put her seal on the case property parcel and on the sample seal as well. On 8.6.2019 he along with HC Baljinder Singh, MMHC produced the case property parcel before the Id. Area Magistrate for purpose of drawing of sample and certification of the inventory and on 11.06.2019 handed over a docket to Constable Amardeep with instructions to carry sealed parcel from the Malkhanna P.S 34, Chandigarh to CFSL, Chandigarh. He also got prepared scaled site plan from HC Yashpal, Draftsman by visiting the spot. He also proved documents Ex.P15 to Ex.P20.

8. PW-4 HC Bijender Kumar, who was the recovery witness of the case, deposed about the patrolling by the police party in the area at the relevant time, apprehension of the accused-respondent by the police party headed by SI



CRA-AS-67-2022 (O&M)

-5-

Juldan Singh and recovery of 07 grams heroin from his conscious possession.

He also deposed that the seal after use was handed over to him by the first IO.

9. PW5 Constable Amardeep deposed that he deposited the sample in the CFSL and handed over the receipt to the MMHC Baljinder Singh.

10. PW6 Inspector Baldev Kumar was the SHO, Police Station Sector 34, Chandigarh on 08.06.2019 when at about 02:35 AM, ASI Surya Parkash and the police party produced the respondent/accused and the case property sealed with seal of 'J' at one place before him. He deposed that he verified the facts and circumstances from the members of the police party as well as the accused and inspected the case related documents and affixed his seal of 'BK' at one place on the parcel and on the sample seal. He also deposed that he deposited the case property with MMHC Baljinder Singh for safe custody.

11. PW7 Ms. Meenu, Junior Scientific Officer, Explosives, CFSL, Chandigarh has proved her report as Ex.P21.

12. After closing the prosecution evidence, statement of the accused/respondent under Section 313 Cr.P.C. was recorded wherein he had denied all the allegations and pleaded innocence. He stated that he was picked up by the police officials from his shop in Sector-45, Chandigarh on 07.06.2019 during night time and later on, implicated in this case. He opted to lead evidence in defence but did not examine any witness and closed the defence evidence.

13. After considering the statements of all the witnesses and taking into account the evidence led by both the sides, the trial Court had convicted the accused/respondent as enumerated above.

**CRA-AS-67-2022 (O&M)****-6-**

11. Learned counsel for the appellant/UT, Chandigarh submits that the punishment imposed by the learned trial Court vide the impugned judgment of conviction and order of sentence is inadequate as the alleged recovery of 07 grams heroin is marginally above the small quantity which was effected from the accused/respondent and he had also been convicted in one more case under the NDPS Act, involving 10 grams heroin. It is further submitted that the accused-respondent stands convicted under Section 21(b) of the NDPS Act for conscious possession of 7 grams of heroin, which falls above small quantity and attracts punishment extending up to ten years with fine up to one lakh rupees. However, despite seriousness of the offence, learned trial Court has imposed only seven months' rigorous imprisonment with a fine of Rs.5,000/-, which defeats the very object of the NDPS Act. He, therefore, prays for allowing the appeal and enhancement of sentence awarded to the accused-respondent in accordance with law.

12. I have heard learned counsel for the appellant and have carefully gone through the record of the case.

13. Undisputedly, the recovery effected from the respondent is 7 grams of heroin. As per notification issued under the NDPS Act, the small quantity prescribed for heroin is 5 grams, whereas the commercial quantity is 250 grams. Thus, the quantity involved in the present case falls within the intermediate category punishable under Section 21(b) of the NDPS Act.

14. Although the offences under the NDPS Act are serious in nature but it is equally well settled that the sentence imposed must remain proportionate to the quantity of contraband recovered and the attending facts



CRA-AS-67-2022 (O&M)

-7-

and circumstances of the case. In the present matter, the quantity recovered is only marginally above the notified small quantity. There is nothing on record to indicate that the respondent was part of any organised drug trafficking network or that the recovery was linked to any commercial activity.

15. Moreover, as regards to the contention of learned counsel for the appellant-State that the respondent was previously involved in another NDPS case, no cogent material has been placed on record to establish any prior conviction in accordance with law so as to attract enhanced punishment for repeat offenders. Mere allegation of previous involvement, in the absence of proof of conviction, cannot be treated as an aggravating circumstance for the purpose of enhancement of sentence.

16. The learned trial Court, while awarding sentence, has properly considered the quantity of contraband and the overall facts and circumstances of the case and, thereafter, imposed the sentence of 07 months' rigorous imprisonment along with fine, which cannot be said to be so inadequate or unjust as to warrant interference by this Court in exercise of appellate jurisdiction.

17. It is well settled that the Appellate Courts should restrain while interfering with the quantum of sentence unless it is shown to be wholly disproportionate, inadequate, or based upon irrelevant considerations. However, in this case, no such ground is made out for interference.

18. Reference may be made to the judgment of Hon'ble the Supreme Court in the case of *Rafiq Qureshi v. NCB* (2019) 6 SCC 492, wherein it has been observed that the quantity of contraband is a relevant consideration in



CRA-AS-67-2022 (O&M)

-8-

determining the quantum of sentence under the NDPS Act. The relevant extract thereof is reproduced hereunder:-

“11. [Section 32B](#) is also inserted by Act 9 of 2001. It is useful to refer to Statement of Objects and Reasons of Amendment Act 9 of 2001 which is to the following effect:

“STATEMENT OF OBJECTS AND REASONS:-

Amendment Act 9 of 2001:- [The Narcotic Drugs and Psychotropic Substances Act, 1985](#) provides deterrent punishment for various offences relating to illicit trafficking in narcotic drugs and psychotropic substances. Most of the offences invite uniform punishment of minimum ten years’ rigorous imprisonment which may extend up to twenty years. [While the Act](#) envisages severe punishments for drug traffickers, it envisages reformatory approach towards addicts. In view of the general delay in trial it has been found that the addicts prefer not to invoke the provisions of the Act. The strict bail provisions under the Act add to their misery. Therefore, it is proposed to rationalise the sentence structure so as to ensure that while drug traffickers who traffic in significant quantities of drugs are punished with deterrent sentences, the addicts and those who commit less serious offences are sentenced to less severe punishment. This requires rationalisation of the sentence structure provided under the Act. It is also proposed to restrict the application of strict bail provisions to those offenders who indulge in serious offences.”

19. In light of the above, this Court does not find any illegality or perversity in the order of sentence passed by the learned trial Court so as to warrant interference in appellate jurisdiction.

20. Consequently, the appeal filed by the appellant-State of UT, Chandigarh seeking enhancement of sentence is hereby dismissed and the judgment of conviction and order of sentence dated 10.01.2020 and 14.01.2020

**CRA-AS-67-2022 (O&M)****-9-**

respectively passed by learned Judge, Special Court, Chandigarh are hereby affirmed.

21. Pending application, if any, shall stand disposed of accordingly.

April 20, 2026
A.Kaundal

(H.S.GREWAL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No