

**In the Court of Jaswinder Singh, PCS, Judicial Magistrate Ist Class,
Ludhiana. (UID No.PB0671)**

CIS No.	NDPS-50-2021
CNR No.	PBLD03-053084-2021
Date of Institution	21.12.2021
Date of Decision	08.01.2025

State of Punjab	Versus	Ravinder Singh son of Prem Singh r/o Village Balauni District Ropar at present resident of Quarter no. 16, Central Jail, Ludhiana. Accused
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FIR No. 108 dated 30.06.2021 Under Section 20 NDPS Act & 42, 45, 54 Prison Act. P.S. Division no. 7, Ludhiana.

Present: Sh. Harpreet Singh, APP for State.
Accused Ravinder Singh on bail with Sh Iqbal Singh, Advocate.

JUDGMENT:

1. Present challan has been presented by the SHO of Police Station Division no. 7, Ludhiana against accused for commission of offences punishable under Section 20 of Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act') and S. 54 Prison Act.

2. In brief, the case of the prosecution, as outlined in the report under Section 173 of the Code of Criminal Procedure, is that on 30.06.2021, an intimation was received that accused, who is employed as a Warder at Central Jail, Ludhiana, was found in possession of Charas and Tobacco. As such, Investigating Officer ASI Rajinder Singh proceeded to Central Jail, Ludhiana where Assistant Superintendent, Central Jail, Ludhiana, Shri Parduman, produced letter bearing endst. no. 3788/UT dated 30.06.2021. Accordingly, it was informed that accused Ravinder Singh was deputed to duty in Cell Block.

On the day of occurrence, at the time of his entry into jail at about 12.25 pm, accused was searched by CRPF officials namely SI Bikram Yadav, HC Aman Kumar, C Sadik Mohammad and HC Lakhan Singh, whereupon two packets of Charas weighing 70 grams and two packets of tobacco were recovered from his shoes. Accordingly, recovered contraband was taken into possession and was duly sealed by investigating officer. FIR in question was got registered and accused was arrested. Rough site plan of place of occurrence was prepared. Sample was sent to the Office of Chemical Examiner and report of chemical examiner was received. Statements of witnesses were recorded and on completion of investigation, Final Report was presented in the Court.

3. On presentation of the challan, copies of Final Report under Section 173 of Code of Criminal Procedure and supporting documents annexed therewith, were supplied to the accused free of costs as required U/s 207 Code of Criminal Procedure.

4. From report U/s 173 (2) of the Code of Criminal Procedure and documents annexed therewith, a prima-facie offence punishable Under section 20 of Narcotic Drugs and Psychotropic Substance Act, 1985 and Section 54 of Prison Act was found to be made out against the accused. Accordingly, charge was framed, to which he pleaded not guilty and claimed trial.

5. In order to substantiate its version, prosecution has examined PW-1 ASI Rajinder Singh, L/C Navtej Kaur as PW-2, ASI Anil Kumar as PW-3, Ct. Karampal Singh as PW-4, Jap Singh as PW-5, Parduman Teipur as PW-6, ASI Hardial Singh as PW-7, Ms Shohima as PW-8, Bikram Yadav as PW-9, Aman Kumar as PW-10 and Sadik Mohammad as PW-11. Thereafter, prosecution evidence was closed by order.

6. After closure of prosecution evidence, statement of accused under

Section 313 Code of Criminal Procedure was recorded, wherein all the incriminating evidence appearing against him was put to him, which he denied and pleaded innocence and false implication. In his defence, no evidence was led by accused.

7. The Court has heard arguments advanced by APP for the State as well as defence counsel and has gone through the record on file.

8. Ld. APP for State has contended that the case against accused stands duly corroborated in view of testimonies of the prosecution witnesses. Referring to deposition of witnesses examined by prosecution, it has been argued that case against accused has been proved beyond reasonable doubt. Further, reference has been made to Ex.PX i.e. report of FSL. Accordingly, it has been prayed that accused be punished in accordance with law.

9. Per contra, learned defence counsel argued with vehemence that recovery effected from accused is doubtful as no independent witness has been examined by the prosecution. It is contended that there are vital infirmities in testimony of prosecution witnesses and considering the same, accused does not deserve to be convicted as such. On strength of these arguments, he prayed for acquittal of accused.

10. The Court has heard the arguments advanced by APP for the State and defence counsel and has also perused the file with their kind assistance.

POINTS FOR DETERMINATION:-

- 1. Whether on 30.06.2021, accused Ravinder Singh was found in possession of 70 grams of Charas without any license or permit and thereby committed an offence punishable under S. 20 of NDPS Act?**

2. Whether on 30.06.2021, accused Ravinder Singh was found in possession of 02 packets of tobacco and thereby committed an offence punishable under S. 54 of Prison Act?

3. Whether prosecution has been able to prove its case beyond reasonable doubt?

11. In order to substantiate its case, prosecution examined CRPF officials namely Bikram Yadav, Aman Kumar and Sadik Mohammad as PW-9 to PW-11, who had allegedly made recovery of contraband from accused. In their respective examination in chief, the witnesses have stated that on 30.06.2021, they were posted at Central Jail Ludhiana on security duty. Accordingly, on the day of occurrence, accused Ravinder Singh was found in possession of 70 gram of Charas and 02 packets of tobacco, during his search. It was further stated that Sh Parduman, Assistant Superintendent, Central Jail Ludhiana was informed in this regard and contraband was also handed over to him. Accused was duly identified by all the witnesses. PW-9 in his cross-examination mentioned that he was posted at Deori i.e. entrance. He further averred that the entire occurrence was videographed. The witness was confronted with judicial file but no such video footage formed part of Final Report submitted by investigating agency. Cross-examination of PW-10 and PW-11 is also to the same effect. Suggestion that accused has been falsely implicated was denied.

Sh. Parduman deposed as PW-6 and stated that on the day of occurrence, accused was searched by CRPF officials in Deori, whereupon he was found in possession of aforesaid contraband, which was recovered from his shoes. Further PW-6 averred that he moved letter bearing no. 3788/UT dated 30.06.2021 i.e. Ex P1 to SHO PS Div no. 07 for necessary action, whereupon FIR Ex P4 was registered. The witness mentioned that ASI

Rajinder Singh was handed over recovered contraband vide memo Ex P2, which was taken into possession. Rough site plan of place of occurrence was prepared by IO as Ex P7. During cross-examination, PW6 mentioned that personal search of accused was not conducted by him. Also, he was not aware of duty hours of accused. At the time of occurrence, PW-6 was present in his office. As per witness, any person who comes to jail premises is checked before entering the second gate. PW-5 produced relevant extract of entry register for month of June, 2021 maintained at Central Jail Ludhiana as Ex PW5/1 and Ex PW5/2. During his Cross-examination, PW5 stated that as per record, accused was assigned duty in Cell Block and he entered into jail premises at 12.25 pm.

Investigating Officer of the case deposed as PW-1 and reiterated the version of prosecution. As such, he averred that on receipt of information, he reached Central Jail Ludhiana where Assistant Superintendent handed over letter/complaint Ex P1 to him alongwith recovered contraband i.e. two packets containing 70 gram of Charas and two packets of tobacco, which were duly sealed and were taken into possession vide memo Ex P2. Thereafter, PW1 recorded police proceedings and got registered FIR Ex P4. Accused was arrested vide memo Ex P5 and his personal search was conducted vide memo Ex P6. Rough site plan was prepared by PW-1 as Ex P7. Aforesaid documents were witnessed by ASI Hardial Singh and C Lovepreet Singh. Case property was produced before officer Incharge Satbir Singh, who attested the same and affixed his seal thereon. Report of FSL was deposed to as Ex PX whereas sample seal chit and form no. 29M are Ex PY and Ex PZ respectively. Accused was duly identified by witness. Case property was produced as MO1 and MO2.

When cross examined, PW-1 stated that recovery was not effected in his presence. Evidence given by PW-7 is also to the same effect.

PW-3 stated that on 30.06.2021, SI Satbir Singh produced one duly sealed plastic box containing 70 gram of Charas and another parcel containing two packets of tobacco, which were duly deposited in Malkhana. On 01.07.2021 parcel containing 70 grams of Charas was handed over to ASI Rajinder Singh for inventory proceedings. On 06.07.2021, sample parcel containing 10 grams of Charas alongwith form no. 29M and sample seal chit was handed over to C Navtej Kaur for depositing the same at FSL Bhadour House Ludhiana. In his cross-examination, PW-3 admitted that the sample was sent after a period of 9 days. PW-2 testified to having deposited sample parcel of recovered Charas at FSL Bhadour House vide rod certificate no. 123/21.

PW-4 in his examination-in-chief stated that he deposited the second parcel of 10 grams Charas with District Nazir on 09.07.2021.

12. In order to impose liability upon the accused, it was incumbent upon the prosecution to prove that the accused was found in possession of 70 grams of Charas and two packets of tobacco in contravention of statutory provisions. As far as argument of counsel for accused that despite PW-6 in his cross-examination stating that accused was produced before Satnam Singh, then GO, said Satnam Singh has not been cited as a witness, is concerned, the Court is of the view that case of prosecution cannot be doubted merely on that basis. Further, as the case is one of chance recovery, compliance of Section 50 NDPS Act is also not required as such. However, it is pertinent to note that CRPF officials, who had allegedly effected recovery from accused, have been examined as PW-9 to PW-11. All of said witnesses in their cross-examination have admitted that the entire process of recovery from possession of accused

was videographed but when said witnesses were confronted with record, no such video footage was found to be forming part of record. Such video footage, if any, could have been best evidence against the accused but the same has not been brought on record for reasons best in knowledge of Investigating Officer and jail officials. PW-1 in his cross-examination has averred that he reached Central Jail Ludhiana at 6.20 pm whereas recovery from accused was effected at the time of his entry in jail premises, time whereof is mentioned in Ex PW5/C as 12.25 pm. As such, there is considerable delay between alleged recovery and the time at which Investigating Officer proceeded to the spot. Also, PW-6 in his cross-examination has admitted that neither the personal search of accused was conducted in his presence nor he has ever received any complaint against accused from anyone.

In view of aforesaid discussion, the Court is of the view that the case of prosecution has not been proved beyond reasonable doubt. It is well settled that benefit of doubt if any is to be given to accused. As such, the Court is of the view that recovery allegedly effected from accused is doubtful. Hence, accused Ravinder Singh is acquitted of offences punishable under S 20 NDPS and Section 54 of Prison Act. Bail Bonds furnished by accused stand discharged. Accused is directed to furnish personal bonds in sum of Rs. 20,000/- with one surety in compliance of Section 437-A Cr.P.C. Case property be disposed off after the expiry of the period of appeal and revision, if any. File be consigned to the Record Room after due compilation.

*Note : Certified that all the pages of this judgment
are signed by me, which have been dictated
and typed directly on computer.*

Pronounced in Open Court:
Dated: 08.01.2025
Preety Sharma
Stenographer-II

Jaswinder Singh
Judicial Magistrate 1st Class,
Ludhiana/UID No. PB0671
'Directly Dictated'

