



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. _____ OF 2025
(Arising out of SLP(Crl.) No.13782 of 2025)

DHARAM SINGH

APPELLANT

VERSUS

THE STATE OF HIMACHAL PRADESH

RESPONDENT

O R D E R

Heard learned counsel for the parties.

2. Leave granted.

3. The present appeal is directed against the impugned judgment dated 16.08.2023 passed by the High Court of Himachal Pradesh at Shimla in Cr.A. No.668 of 2019, by which the High Court has upheld the conviction of the appellant as awarded by the Trial Court vide its judgment dated 08.11.2019 in Sessions Trial No.1/2018 under Section 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, the "NDPS Act") and also the sentence to undergo rigorous imprisonment of ten years along with fine of Rs.1,00,000/- (Rupees One Lakh) and in default, to undergo simple imprisonment of one year.

4. Learned counsel for the appellant submitted that on a chance encounter with the police, it is alleged that the appellant, carrying a bag, panicked and started running and upon being chased, the appellant is said to have thrown the bag from which material

appearing to be charas was recovered, which was followed by a body search in which no contraband was recovered. It was submitted that the appellant was not given an option to be searched before the Magistrate as is mandatory under Section 50 of the NDPS Act. It was contended that the Courts below ought to have appreciated that such a provision being mandatory in nature, non-compliance cannot result in conviction. It was contended that the quantity of charas said to have been recovered from the appellant is 1 kg. 80 gms., which is slightly above the commercial quantity of 1 kg. It was further contended that 80 gms. is a meagre quantity and since the contraband material is said to have been wrapped in a plastic, which could also account for some weight and the Court may take a view that there is doubt with regard to the quantity being in excess of the commercial quantity, the benefit ought to have been granted to the appellant. It was further contended that the electronic scale on which the recovered material is said to have been weighed, was not properly set inasmuch as, it has to be first ensured that when the empty weight, should display zero and then only the material has to be put to record the correct weight, which is not indicated in the documents of the present case. Thus, it was submitted that though it is a case of acquittal, but even taking everything against the appellant, at least, the benefit of the weight of the recovered material, should be given to him and the Court may take a lenient view of reducing the sentence of ten years to that of period undergone, which is about seven years, as of now. It was submitted that the law contemplates that in cases of recovery of contraband material of intermediate quantity i.e., less

than the commercial quantity, the sentence may extend to ten years and the present being a case where neither the appellant has any criminal antecedent nor the mode of search is in accordance with law, such benefit should be given to the appellant.

5. Learned counsel for the respondent-State submitted that the authorities were very particular in following the due procedure of law and it was a chance recovery as the appellant had panicked and tried to run away and recovery was made. It was further submitted that the FSL report has confirmed the material to be charas and thus, there cannot be any doubt of the material being banned under the NDPS Act. It was further contended that with regard to the weighing machine, though there is no specific averment that the scale was first calibrated to show zero and then, weighing was done, but the same would not be of much relevance for the weighing was done in the presence of the appellant to which he had not objected.

6. Having considered the matter in detail, we find that the conviction of the appellant needs no interference. However, keeping in mind the fact that being an electronic scale, it has rightly been pointed out by learned counsel for the appellant that there is lack of evidence to prove that the scale was recalibrated to indicate zero before the weighing was done. This raises some sort of a doubt with regard to the actual weight. This would be relevant in the facts of the present case for the reason that the commercial quantity is 1 kg and the weight in excess is alleged to be only 80 gms. Thus, a holistic and overall assessment of the facts and circumstances of the present case, we find that a doubt having been

created with regard to the actual weight of the charas/contraband, the appellant deserves to be given such benefit of doubt.

7. Accordingly, without disturbing the conviction recorded against the appellant, we modify the sentence to that of period already undergone by the appellant. The appellant be released from custody, if not required in any other case.

8. The appeal stands partly allowed to the extent indicated above.

9. Pending application(s), if any, shall stand disposed of.

.....J.
[AHSANUDDIN AMANULLAH]

.....J.
[PRASHANT KUMAR MISHRA]

NEW DELHI
10th NOVEMBER, 2025

ITEM NO.63

COURT NO.14

SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No.13782/2025

[Arising out of impugned final judgment and order dated 16-08-2023 in CRA No.668/2019 passed by the High Court of Himachal Pradesh at Shimla]

DHARAM SINGH

Petitioner(s)

VERSUS

THE STATE OF HIMACHAL PRADESH

Respondent(s)

(IA No. 271699/2024 - EXEMPTION FROM FILING O.T.)

Date : 10-11-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Appellant(s) Mr. Aftab Ali Khan, AOR
Mr. M. Z. Chaudhary, Adv.
Mr. Brahmjeet Singh, Adv.
Mr. Mohd. Faisal Khan, Adv.
Mr. Ali Safeer Farooqi, Adv.

For Respondent(s) Mr. Vikrant Narayan Vasudeva, AOR
Mr. Rohit Lochav, Adv.
Mr. Arindam Gupta, Adv.
Mr. Shivansh Aggarwal, Adv.
Mr. Shah Mohd, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

2. The appeal stands partly allowed in terms of the signed order.
3. Pending application(s), if any, shall stand disposed of.

(SAPNA BISHT)
COURT MASTER (SH)

(ANJALI PANWAR)
ASSISTANT REGISTRAR

(Signed order is placed on the file)