

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 501 of 2024
Reserved on: 24.4.2025
Date of Decision: 14.05.2025

Saurabh Bhatnagar	...	Appellant
Versus		
State of H.P.	...	Respondent

Coram
Hon’ble Mr Justice Rakesh Kainthla, Judge.
Whether approved for reporting?¹ Yes.
For the Appellant : Mr. Rajesh Mandhotra, Advocate.
For the Respondent : Mr. Lokender Kutlehria, Additional Advocate General.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment of conviction dated 31.8.2024 and order of sentence dated 3.9.2024, passed by learned Special Judge, (Principal Judge), Kangra at Dharamshala, District Kangra, H.P., (learned Trial Court), vide which the appellant (accused before learned Trial Court) was convicted and sentenced as under: -

Under Section 21 of the ND&PS Act	To suffer rigorous imprisonment for eight years, pay a fine of
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¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

	₹1,00,000/- (₹One Lakh only), and in default of payment of fine, to undergo simple imprisonment for six months.
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(Parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience.)

2. Briefly stated, the facts giving rise to the present appeal are that the police presented a challan against the accused before the learned Trial Court for the commission of an offence punishable under Sections 21 and 29 of the ND&PS Act. It was asserted that SI/SHO Kulwant Singh (PW16), ASI Kuldeep Singh (PW14), HC Abnesh Kumar (PW12) and HC Vinod Patial (PW13) were going towards Praur in the official vehicle bearing registration No. HP39D-8983, being driven by Constable Ankush Kumar (PW18). A vehicle bearing registration No. HP-40B-6000 came from Praur at 11.20 AM. A flag rod was installed in the vehicle. The police signalled the driver of the vehicle to stop, but he sped away with the vehicle towards Arla. The police became suspicious and followed the vehicle. SI Kulwant asked HC Vikas Arora (PW6) to intercept the vehicle. HC Vikas Arora intercepted it near Sangam Palace, Arla. Manoj Chaudhary (PW2) and Rajeev Kumar (PW5) were associated as witnesses. The police checked

the vehicle. The driver identified himself as Saurabh Bhatnagar, and another person identified himself as Abhishek Gupta. The police found two stick-shaped rolls wrapped with black tape, having stars, which were concealed in the cover of the driver's seat. The police also recovered three sticks, out of which two were wrapped with yellow star tape and one was wrapped with green and black star tape. These were concealed in the seat cover of the front seat. The police removed the tape and found translucent packets tied with knots. The knots were opened, and the packets were found to contain heroin. SI Kulwant Singh (PW16) called the Police Station and asked for the IO Kit and the weighing scale. Constable Malkiyat Singh (PW3) reached the spot with an IO Kit and weighing scale at 11.15 AM. The police checked the substance and confirmed it to be heroin. The heroin was weighed with a weighing scale, and its weight was found to be 50 grams. It was put in a cloth parcel and the parcel was sealed with eight impressions of the seal 'FO'. Seal impression was taken on a separate piece of cloth (Ex. P5/PW2), NCB-1 Form (Ex.P28/PW10) was filled in triplicate, and seal impression was taken on the NCB-1 Form. The seal was handed over to Manoj Chaudhary after its use. Cloth parcel, sample seal, NCB-1 Form,

vehicle and the keys were seized vide memo (Ex. P6/PW2). HC Vikas Arora issued a challan (Ex 14/PW6) for installing a flag road without authority. HC Vikas Arora (PW6) took the photographs of the proceedings (Ex.P9/PW2), (Ex.15/PW6) to Ex.23/PW6). SI Kulwant Singh (PW16) prepared the rukka (Ex.P10/PW3) and sent it to the Police Station, Bhawarna, where FIR (Ex. P11/PW3) was registered. SI Kulwant Singh (PW16) conducted the investigation. He prepared the spot map (Ex.P39/PW16) and recorded the statements of witnesses as per their version. The statements were also video recorded, and the video recording was transferred to the DVD (Ex.P41/PW16). The accused were arrested vide memo (Ex.P7/P8/PW2). The information about the arrest was supplied to the father of the accused, and memos (Ex.P7/P8/PW2) were prepared. The case property was deposited with MHC Anil Walia (PW10), who deposited it in Malkhana. He handed over the cloth parcel to SI Kulwant Singh (PW16) on 16.5.2018 for inventory proceedings. SI Kulwant Singh (PW16) filed an application (Ex.P42/PW16) before the learned Additional Chief Judicial Magistrate, Palampur, who issued the inventory certificate (Ex.P43/PW16) and passed an order (Ex.P44/PW16). The parcel was sealed with additional seals

of impression 'AS'. The parcel and the documents were deposited with ASI Anil Kumar on the same day. ASI Anil Kumar handed over the parcel to Constable Ashok Kumar (PW7) with a direction to carry them to FSL, Junga vide RC No. 73 of 2018. Constable Ashok Kumar deposited all the articles at FSL, Junga and handed over the receipt to MHC on his return. The result of the analysis (Ex. PX) was issued, in which it was shown that the substance was Diacetylmorphine (heroin). The special report (Ex.P12/PW4) was prepared and was handed over to Constable Vikas Mehra (PW4) with a direction to carry it to the SDPO, Palampur. Constable Vikas Mehra handed over the special report to SDPO, Palampur, Vikas Kumar Dhiman, on 17.5.2018 at 2.25 PM. SDPO Vikas Kumar Dhiman made an endorsement on the special report and handed it over to his Reader, ASI Harish Kumar (PW11), who made the entry in the concerned register (Ex.P33/PW11) and retained the report on record. The statements of remaining witnesses were recorded as per their version, and after the completion of the investigation, a challan was prepared and presented before the learned Trial Court.

3. **Learned Trial Court charged the accused with the commission of offences punishable under Sections 21 and 29 of**

the ND&PS Act, to which they pleaded not guilty and claimed to be tried.

4. The prosecution examined eighteen witnesses to prove its case. Sandeep Bhatnagar (PW1) is the owner of the vehicle. Manoj Chaudhary (PW2) and Rajiv Kumar (PW5) are the independent witnesses who did not support the prosecution's case. HHC Malkiyat Singh (PW3) carried the IO Kit and weighing machine to Arla. HHC Vikas (PW4) carried the special report to SDPO, Palampur. ASI Vikas Kumar (PW6) was posted as the Traffic Incharge who intercepted the vehicle and issued a challan. HC Ashok Kumar (PW7) carried the case property to FSL, Junga. HHC Ranjit Singh (PW8) brought the case property and the result of the analysis from FSL. HHC Gopal Dass (PW9) proved the entry in the daily diary. ASI Anil Kumar Walia (PW10) was working as MHC, with whom the case property was deposited. HC Harish Chand (PW11) was working as a Reader to the SDPO. HC Abnesh Kumar (PW12) and HC Vinod Patial (PW13) are the witnesses to the personal search of the accused. ASI Kuldeep Kumar (PW14) is the official witness to the recovery. Surjit Singh (PW15) developed the photographs taken on the spot. SHO Kulwant Singh (PW16) effected the recovery and

conducted the investigation. HHC Mir Singh (PW17) entered the rapat. Constable Ankush Kumar (PW18) was driving the official vehicle.

5. The accused in their statement recorded under Section 313 of Cr.p.c. denied the prosecution's case in its entirety; however, accused Saurav Bhatnagar admitted that he was driving the vehicle bearing registration No. HP-40B-6000. The accused stated that they were innocent, and the witnesses deposed falsely against them. They did not lead any defence.

6. Learned Trial Court held that the testimonies of official witnesses corroborated each other. The mere fact that independent witnesses had not supported the prosecution's case is not sufficient to discard the prosecution's version. Minor contradictions in the statements of official witnesses would not be sufficient to discard them, as the contradictions are bound to come with time. No recovery was made from the personal search of the accused. The testimonies of the police officials could not be discarded on the ground that they happened to be police officials. The burden would be shifted upon the accused to explain their position; however, no explanation was provided. The case against the accused, Abhishek Gupta, was not proved

beyond a reasonable doubt, hence, he was acquitted, while the accused, Saurabh Bhatnagar, was convicted and sentenced as aforesaid.

7. Being aggrieved by the judgment and order passed by the learned Trial Court, the accused has filed the present appeal, asserting that the learned Trial Court erred in convicting and sentencing the accused. The independent witnesses did not support the prosecution's case, which cast a serious doubt on the same. No cogent reason was assigned for acquitting the accused. The appellant/accused was convicted and the co-accused was acquitted on the same evidence, which is impermissible. Five police officials were present on the spot, out of whom four were examined in the Court, however, only the SHO and ASI narrated the incident of recovery. The fact that the other witnesses did not narrate about the recovery would make the prosecution's case doubtful. There is a contradiction regarding the place of the personal search of the accused. The CCTV camera was installed on the spot; however, the CCTV footage was not taken into possession. There is non-compliance with Section 50 of the ND&PS Act, which is fatal. Therefore, it was prayed that the

present appeal be allowed and the judgment and order passed by the learned Trial Court be set aside.

8. I have heard Mr. Rajesh Mandhotra, learned counsel for the appellant and Mr. Lokender Kutlehria, learned Additional Advocate General, for the respondent-State.

9. Mr. Rajesh Mandhotra, learned counsel for the appellant/accused, submitted that the learned Trial Court erred in convicting and sentencing the accused. There were various contradictions in the testimonies of the police officials. As per the prosecution's case, Constable Abnesh Kumar (PW12), Vinod Kumar (PW13) and Constable Ankush Kumar (PW18) were also present on the spot, but they did not say anything about the recovery. This would make the prosecution's case suspect. The independent witnesses did not support the prosecution's case, and this would cast a doubt on the prosecution's version. No other witness except the Investigating Officer deposed about the video recording of the statements. The integrity of the case property was not established. There is a contradiction regarding the personal search of the accused, which would make it highly doubtful that the personal search of the accused was conducted. Learned Trial Court failed to look into these aspects. In the

alternative, he submitted that the learned Trial Court had imposed a disproportionate sentence without providing any justification. Therefore, he prayed that the present appeal be allowed and the judgment and order passed by the learned Trial Court be set aside.

10. Mr. Lokender Kutlehria, learned Additional Advocate General for the respondent-State, submitted that the contradictions pointed out by learned defence counsel are minor in nature, which are bound to come with time and cannot be used for discarding the prosecution case. No recovery was made from the personal search of the accused, and there was no requirement to comply with the provisions of Section 50 of the ND&PS Act. Learned Trial Court had rightly rejected the submission to this effect. The accused was found in possession of narcotics, which are adversely affecting the young generation. Therefore, the sentence imposed by the learned Trial Court is not excessive, as a deterrent sentence has to be awarded in cases involving narcotics to dissuade like-minded people from committing a similar offence. Therefore, he prayed that the present appeal be dismissed.

11. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

12. Manoj Chaudhary (PW2) and Rajeev Kumar (PW5) are independent witnesses to the recovery. Neither of them has supported the prosecution's case. Manoj Chaudhary (PW2) stated that SHO Kulwant Singh (PW16) called him and requested him to put his signature on certain documents. He put the signatures as directed by SHO Kulwant Singh (PW16). He was permitted to be cross-examined. He denied that he was going from Thakurdwara towards Arla on 15.5.2018 or that the police had called him and disclosed that they wanted to search the vehicle bearing registration No. HP-40B-6000. He denied that the vehicle was searched in his presence or in the presence of Rajiv Kumar. He denied that the driver revealed his name as Saurav Bhatnagar, and the other person revealed his name as Abhishek Gupta. He denied that during the search of the vehicle, two stick-shaped rolls were recovered from the back cover of the driver seat, which were wrapped in green tape bearing black stars. He denied that three rolls were recovered from the search of the front seat and that one roll was wrapped in green tape having black stars, and the other two rolls were wrapped in yellow tape bearing black

stars. He denied that the rolls were checked, and they were found to contain heroin. He denied that the heroin was tested with a Drug Detection Kit, and its weight was found to be 50 grams. He denied that the police seized the heroin, prepared documents and arrested the occupants of the vehicle. He denied his previous statement recorded by the police.

13. Rajiv Kumar (PW5) stated that he was called by Manoj, the owner of the Kajaria Tiles Showroom. Manoj told him to put his signature on certain documents. Since Manoj was known to him, therefore, he put the signatures. He was permitted to be cross-examined. He denied that he was called by the police on 15.5.2018 to search the vehicle bearing registration No. HP-40B-6000. He denied that the driver identified himself as Saurav, and the person sitting beside the driver identified himself as Abhishek. He denied that the police searched the vehicle and recovered two stick-shaped rolls from the back cover of the driver's seat, which were wrapped in green tape having black stars. He denied that three rolls were recovered from the back of the front seat, out of which one was wrapped with green tape having black stars, and two were wrapped in yellow tape having black stars. He denied that the substance was checked

with a Drug Detection Kit and was confirmed to be heroin. He denied that the substance was weighed, and its weight was found to be 50 grams. He denied that police seized the charas, vehicle, and other articles and arrested the occupants of the vehicle. He denied his previous statement recorded by the police.

14. Inspector Kulwant Singh (PW16) stated that he had recorded the statements of Rajeev Kumar (Ex.P13/PW5) and Manoj Chaudhary (Ex.P3/PW2), and other witnesses as per their version. This was not suggested to be incorrect, which means that this part of the statement was not disputed by the defence. Therefore, Manoj Kumar and Rajiv Kumar are shown to have made two inconsistent statements on two different occasions—one before the police and the other before the Court. Their credibility has been shaken under Section 155(2) of the Indian Evidence Act. It was laid down by the Hon'ble Supreme Court in *Sat Paul v. Delhi Admn.*, (1976) 1 SCC 727 that where a witness has been thoroughly discredited by confronting him with the previous statement, his statement cannot be relied upon. However, when he is confronted with some portions of the previous statement, his credibility is shaken to that extent, and the rest of the statement can be relied upon. It was observed:

“52. From the above conspectus, it emerges clearly that even in a criminal prosecution, when a witness is cross-examined and contradicted with the leave of the court by the party calling him, his evidence cannot, as a matter of law, be treated as washed off the record altogether. It is for the Judge of fact to consider in each case whether, as a result of such cross-examination and contradiction, the witness stands thoroughly discredited or can still be believed in regard to a part of his testimony. If the Judge finds that in the process, the credit of the witness has not been completely shaken, he may, after reading and considering the evidence of the witness, as a whole, with due caution and care, accept, in the light of the other evidence on the record, that part of his testimony which he finds to be creditworthy and act upon it. If in a given case, the whole of the testimony of the witness is impugned, and in the process, the witness stands squarely and totally discredited, the Judge should, as a matter of prudence, discard his evidence in toto.”

15. This Court has also laid down in *Ian Stilman versus. State 2002(2) Shim. L.C. 16* that where a witness has been cross-examined by the prosecution with the leave of the Court, his statement cannot be relied upon. It was observed:

“12. It is now well settled that when a witness who has been called by the prosecution is permitted to be cross-examined on behalf of the prosecution, such a witness loses credibility and cannot be relied upon by the defence. We find support for the view we have taken from the various authorities of the Apex Court. In *Jagir Singh v. The State (Delhi Administration)*, AIR 1975 Supreme Court 1400, the Apex Court observed:

"It is now well settled that when a witness, who has been called by the prosecution, is permitted to be cross-examined on behalf of the prosecution, the result of that course being adopted is to discredit

this witness altogether and not merely to get rid of a part of his testimony".

16. It was laid down by this Court in *Budh Ram Versus State of H.P.* 2020 Cri. L.J. 4254, that the prosecution's version cannot be discarded because the independent witnesses did not support it. It was observed:

“Though the independent witnesses, PW-1 Rajiv Kumar and PW-2 Hira Lal, were declared hostile and were cross-examined, however, the law in respect of appreciating the testimonies of such witnesses is well settled. Hon'ble Apex Court in *Sudru versus State of Chhattisgarh*, (2019) 8 SCC 333, relying upon *Bhajju versus State of M.P.*, 2010 4 SCC 327, has again reiterated the well-settled principle that evidence of a hostile witness can be relied upon by the prosecution version. Merely because a witness has turned hostile, the same does not render his evidence or testimony inadmissible in a trial, and such a conviction can be based upon such testimony, if it is corroborated by other reliable evidence.

In a case titled *Raja and Others versus State of Karnataka*, (2016) 10 SCC 506 the Apex Court observed that the evidence of a hostile witness cannot be altogether discarded and as such it is open for the Court to rely on the dependable part of such evidence which stands duly corroborated by other reliable evidence on record.

In a case titled *Selvaraj @ Chinnapaiyan versus State represented by Inspector of Police*, (2015) 2 SCC 662 the Apex Court has observed that in a situation/case, wherein, the witness deposes false in his/her cross-examination, that itself is not sufficient to outrightly discard his/her testimony in examination-in-chief. The Court held that a conviction can be recorded believing the testimony of such a witness given in examination-in-chief; however, such evidence is required to be examined with great caution.

In *Ashok alias Dangra Jaiswal versus State of Madhya Pradesh*, (2011) 5 SCC 123, it has been held as under: -

"The seizure witness turning hostile may not be very significant by itself, as it is not an uncommon phenomenon in criminal trials, particularly in cases relating to the NDPS Act."

17. Therefore, the accused cannot be acquitted merely because the independent witnesses turned hostile.

18. ASI Vikas Arora (PW6), Kuldeep Singh (PW14) and Inspector Kulwant Singh (PW16) supported the prosecution case in their examination-in-chief. It was submitted that their testimonies cannot be relied upon due to the following contradictions: -

- (i) HHC Malkiyat Singh (PW3) stated that he carried the rukka from the spot and reached the Police Station at about 3.00 PM, whereas, the FIR was registered at 3.42 PM.
- (ii) Avnesh Kumar (PW12) stated in his cross examination that the personal search of the accused was conducted in his presence in front of the gate of Sagar Palace, whereas ASI Vinod Patial (PW13) stated in his cross examination that the personal search was conducted in the Police Station.
- (iii) ASI Anil Kumar (PW10), ASI Avnesh Kumar (PW12), ASI Vinod Patial (PW13) and Constable Ankush Kumar (PW18) were the members of the raiding party, but

they did not depose anything in their examination-in-chief regarding the search and the seizure.

- (iv) The incident occurred in front of Hotel Sangam Palace, where a CCTV camera was installed, but no CCTV footage was produced before the Court.
- (v) Inspector Kulwant Singh (PW16) stated that the procedure and documentation in this case continued till 6-6.30 PM, after which the accused were arrested. The arrest memo (Ex.P7/PW2) and (Ex.P8/PW2) mention the time of the arrest as 6.00 PM.
- (vi) No witness except Inspector Kulwant Singh deposed about the video recording of the proceedings.

19. Before advertng to the contradictions highlighted by the learned counsel for the defence, the law regarding the discrepancies has to be recollected. It was laid down by the Hon'ble Supreme Court in *Goverdhan Vs. State of Chhattisgarh* (2025) SCC Online SC 69 that the discrepancies are not sufficient to discard the prosecution case unless they are material. It was observed: -

“51. As we proceed to examine this crucial aspect, it may be apposite to keep in mind certain observations made by this Court relating to discrepancies in the account of eyewitnesses.

In *Leela Ram (Dead) through Duli Chand v. State of Haryana*, (1999) 9 SCC 525, it was observed as follows:

“9. Be it noted that the High Court is within its jurisdiction, being the first appellate court to reappraise the evidence, but the discrepancies found in the ocular account of two witnesses, unless they are so vital, cannot affect the credibility of the evidence of the witnesses. There are bound to be some discrepancies between the narrations of different witnesses when they speak on details, and unless the contradictions are of a material dimension, the same should not be used to jettison the evidence in its entirety. Incidentally, corroboration of evidence with mathematical niceties cannot be expected in criminal cases. Minor embellishment, there may be, but variations by reason therefore should not render the evidence of eyewitnesses unbelievable. Trivial discrepancies ought not to obliterate otherwise acceptable evidence. In this context, reference may be made to the decision of this Court in *State of U.P. v. M.K. Anthony* [(1985) 1 SCC 505: 1985 SCC (Cri) 105]. In para 10 of the Report, this Court observed: (SCC pp. 514-15)

‘10. While appreciating the evidence of a witness, the approach must be whether the evidence of the witness, read as a whole, appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the court to scrutinise the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief. Minor discrepancies on trivial matters not touching the core of the case, hypertechnical approach by taking sentences torn out of context here or there from the evidence, attaching importance to

some technical error committed by the investigating officer not going to the root of the matter would not ordinarily permit rejection of the evidence as a whole. If the court before whom the witness gives evidence had the opportunity to form the opinion about the general tenor of evidence given by the witness, the appellate court which had not this benefit will have to attach due weight to the appreciation of evidence by the trial court and unless there are reasons weighty and formidable it would not be proper to reject the evidence on the ground of minor variations or infirmities in the matter of trivial details. Even honest and truthful witnesses may differ in some details unrelated to the main incident because the power of observation, retention and reproduction differ with individuals.'

10. In a very recent decision in *Rammi v. State of M.P.* [(1999) 8 SCC 649; 2000 SCC (Cri) 26], this Court observed: (SCC p. 656, para 24)

'24. When an eyewitness is examined at length, it is quite possible for him to make some discrepancies. No true witness can escape from making some discrepant details. Perhaps an untrue witness who is well tutored can successfully make his testimony totally non-discrepant. But courts should bear in mind that it is only when discrepancies in the evidence of a witness are so incompatible with the credibility of his version that the court is justified in jettisoning his evidence. But too serious a view to be adopted on mere variations falling in the narration of an incident (either as between the evidence of two witnesses or as between two statements of the same witness) is an unrealistic approach for judicial scrutiny.'

This Court further observed: (SCC pp. 656-57, paras 25-27)

‘25. It is a common practice in trial courts to make out contradictions from the previous statement of a witness for confronting him during cross-examination. Merely because there is an inconsistency in evidence, it is not sufficient to impair the credit of the witness. No doubt, Section 155 of the Evidence Act provides scope for impeaching the credit of a witness by proof of an inconsistent former statement. But a reading of the section would indicate that all inconsistent statements are not sufficient to impeach the credit of the witness. The material portion of the section is extracted below:

“155. Impeaching the credit of a witness.

—The credit of a witness may be impeached in the following ways by the adverse party, or, with the consent of the court, by the party who calls him—

(1)-(2) ***

(3) by proof of former statements inconsistent with any part of his evidence which is liable to be contradicted;”

26. A former statement, though seemingly inconsistent with the evidence, need not necessarily be sufficient to amount to a contradiction. Only such an inconsistent statement, which is liable to be “contradicted”, would affect the credit of the witness. Section 145 of the Evidence Act also enables the cross-examiner to use any former statement of the witness, but it cautions that if it is intended to “contradict” the witness, the cross-examiner is enjoined to comply with the formality prescribed therein. Section 162 of the Code also permits the cross-

examiner to use the previous statement of the witness (recorded under Section 161 of the Code) for the only a limited purpose, i.e. to “contradict” the witness.

27. To contradict a witness, therefore, must be to discredit the particular version of the witness. Unless the former statement has the potency to discredit the present statement, even if the latter is at variance with the former to some extent, it would not be helpful to contradict that witness (vide *Tahsildar Singh v. State of U.P.* [AIR 1959 SC 1012: 1959 Cri LJ 1231]).”

52. Further, this Court also cautioned about attaching too much importance to minor discrepancies of the evidence of the witnesses in *Bharwada Bhoginbhai Hirjibhai v. State of Gujarat* (1983) 3 SCC 217 as follows:

“5. ... We do not consider it appropriate or permissible to enter upon a reappraisal or reappreciation of the evidence in the context of the minor discrepancies painstakingly highlighted by the learned counsel for the appellant. Overmuch importance cannot be attached to minor discrepancies. The reasons are obvious:

- (1) By and large, a witness cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a videotape is replayed on the mental screen.
- (2) Ordinarily, it so happens that a witness is overtaken by events. The witness could not have anticipated the occurrence, which so often has an element of surprise. The mental faculties, therefore, cannot be expected to be attuned to absorb the details.
- (3) The powers of observation differ from person to person. What one may notice, another may not. An object or movement might emboss its image

on one person's mind, whereas it might go unnoticed on the part of another.

- (4) By and large, people cannot accurately recall a conversation and reproduce the very words used by them or heard by them. They can only recall the main purport of the conversation. It is unrealistic to expect a witness to be a human tape recorder.
- (5) In regard to the exact time of an incident or the time duration of an occurrence, usually, people make their estimates by guesswork on the spur of the moment at the time of interrogation. And one cannot expect people to make very precise or reliable estimates in such matters. Again, it depends on the time sense of individuals, which varies from person to person.
- (6) Ordinarily, a witness cannot be expected to recall accurately the sequence of events which take place in rapid succession or in a short time span. A witness is liable to get confused or mixed up when interrogated later on.
- (7) A witness, though wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross-examination made by the counsel and, out of nervousness, mix up facts, get confused regarding the sequence of events, or fill up details from imagination on the spur of the moment. The subconscious mind of the witness sometimes so operates on account of the fear of looking foolish or being disbelieved, though the witness is giving a truthful and honest account of the occurrence witnessed by him—perhaps it is a sort of psychological defence mechanism activated on the spur of the moment.”

53. To the same effect, it was also observed in *Appabhai v. State of Gujarat 1988 Supp SCC 241* as follows:

“13. ... The court, while appreciating the evidence, must not attach undue importance to minor

discrepancies. The discrepancies which do not shake the basic version of the prosecution's case may be discarded. The discrepancies which are due to normal errors of perception or observation should not be given importance. The errors due to lapse of memory may be given due allowance. The court, by calling into aid its vast experience of men and matters in different cases, must evaluate the entire material on record by excluding the exaggerated version given by any witness. When a doubt arises in respect of certain facts alleged by such a witness, the proper course is to ignore that fact only unless it goes to the root of the matter to demolish the entire prosecution story. The witnesses nowadays go on adding embellishments to their version, perhaps for fear that their testimony being rejected by the court. The courts, however, should not disbelieve the evidence of such witnesses altogether if they are otherwise trustworthy. Jaganmohan Reddy, J. speaking for this Court in *Sohrab v. State of M.P.* [(1972) 3 SCC 751: 1972 SCC (Cri) 819] observed : [SCC p. 756, para 8: SCC (Cri) p. 824, para 8]

‘8. ... This Court has held that falsus in uno, falsus in omnibus is not a sound rule for the reason that hardly one comes across a witness whose evidence does not contain a grain of untruth or at any rate exaggeration, embroideries or embellishments. In most cases, the witnesses when asked about details venture to give some answer, not necessarily true or relevant for fear that their evidence may not be accepted in respect of the main incident which they have witnessed but that is not to say that their evidence as to the salient features of the case after cautious scrutiny cannot be considered....’”

20. Hence, the testimonies of the witnesses have to be examined to determine whether the contradictions are real or apparent, material or minor.

21. The contradiction in the statement of Malkiyat Singh (PW3) regarding the time at which he reached the Police Station is not significant because as was laid down in *Bharwada Bhogin Bhai* (supra) no person remembers the time by looking at the watch and different persons have different perceptions of the time, therefore, any discrepancy about the time cannot be considered to be material.

22. The contradiction regarding the personal search of the accused is related to the detail and does not affect the core of the prosecution case. Further, Avnesh Kumar was confronted with his previous statement, wherein it was not mentioned that a personal search of the accused was conducted on the spot, which means that it is an improvement and cannot be used to contradict the prosecution's case. Further, no recovery was effected from the personal search of the accused, and even if there is some discrepancy regarding the place where the search was conducted, the same is not fatal to the core of the prosecution's case regarding the recovery.

23. ASI Vikas Arora (PW6) stated in his cross-examination that a Sangam Marriage Palace is located near the Railway line, Arla, where CCTV cameras are installed. He admitted that the place where the vehicle was checked was within the purview of CCTV cameras of the Sangam Marriage Palace. He did not know whether CCTV footage was taken by the Investigating Officer or not. It was submitted that the failure to seize the CCTV camera is fatal to the prosecution's case. This submission is not acceptable. The failure to seize the CCTV footage would be a case of defective investigation, and the accused cannot be acquitted because of the defective investigation.

24. The CCTV footage would have been corroborative evidence, and the corroboration is required when the evidence of eye eyewitness is found to be unsatisfactory. Learned Trial Court examined the witnesses and found that their testimonies were satisfactory and credible. It was laid down by the Hon'ble Supreme Court in *Goverdhan* (supra) that the Appellate Court should not interfere with the findings regarding the credibility of the witnesses recorded by the learned Trial Court unless there is some illegality in it. It was observed: -

“83. The trial court, after recording the testimony of the PW-10, and on consideration of the same, found her evidence trustworthy and credible. We see no reason to question the assessment about the credibility of the witness by the Trial Court, which had the advantage of seeing and hearing the witness and all other witnesses. Nothing has been brought to our notice of any serious illegality or breach of fundamental law to warrant taking a different view of the evidence of PW-10.

In this regard, we may keep in mind the valuable observations made by this Court in *Jagdish Singh v. Madhuri Devi*, (2008) 10 SCC 497, in the following words:

“28. At the same time, however, the appellate court is expected, nay bound, to bear in mind a finding recorded by the trial court on oral evidence. It should not forget that the trial court had an advantage and opportunity of seeing the demeanour of witnesses and, hence, the trial court's conclusions should not normally be disturbed. No doubt, the appellate court possesses the same powers as the original court, but they have to be exercised with proper care, caution and circumspection. When a finding of fact has been recorded by the trial court mainly on appreciation of oral evidence, it should not be lightly disturbed unless the approach of the trial court in the appraisal of evidence is erroneous, contrary to well-established principles of law or unreasonable.

29.

30. In *Sara Veeraswami v. Talluri Narayya* [(1947-48) 75 IA 252: AIR 1949 PC 32] the Judicial Committee of the Privy Council, after referring to relevant decisions on the point, stated [Quoting from *Watt v. Thomas*, [1947] 1 All ER 582, pp. 583 H-584 A.] : (IA p. 255)

“... but if the evidence as a whole can reasonably be regarded as justifying the conclusion arrived at at the trial, and especially if that conclusion has been arrived at on conflicting testimony by a tribunal which saw and heard the witnesses, the appellate court will bear in mind that it has not enjoyed this opportunity and that the view of the trial Judge as to where credibility lies is entitled to great weight. This is not to say that the Judge of the first instance can be treated as infallible in determining which side is telling the truth or is refraining from exaggeration. Like other tribunals, he may go wrong on a question of fact, but it is a cogent circumstance that a Judge of first instance, when estimating the value of verbal testimony, has the advantage (which is denied to courts of appeal) of having the witnesses before him and observing how their evidence is given.”

25. Therefore, not much advantage can be derived from the failure to seize the CCTV footage.

26. The failure to depose about the video recording is not significant because it is trite to say that the absence of evidence is not evidence of absence. Hence, the mere variation to depose about the video recording is not significant, especially when the video recording was produced before the Court and nothing has been shown to doubt the same.

27. It was submitted that the police party, consisting of SHO Kulwant Singh, ASI Kuldeep, HC Avnesh, HC Vinod Patial,

Constables Ankush Kumar, Vikas Arora, was present to intercept the vehicle. HC Abnesh Kumar (PW12), Vinod Patial (PW13) and Constable Ankush Kumar (PW18) were examined, but they did not say anything about the recovery effected in their presence. This would make the prosecution's case suspect. A similar situation arose before this Court in *Chet Ram v. State of H.P., Cr. Appeal No. 151 of 2006, decided on 25.7.2007*, and it was held that where the police official had participated during the investigation, in more than one proceeding, and they deposed about only one proceeding, it cannot be inferred that other proceedings had not taken place in his presence. It was observed:-

“21. It was argued that even though according to the testimony of PW-6 LHC Narpat Ram and PW-8 HC Ram Lal, Constable Dhan Dev (PW7) was with them when the appellant was intercepted and Charas was recovered from his bag, but he did not make even a whisper of his being present on the spot and witnessing the search and recovery of Charas. It was argued that his silence was enough to hold that he was not there, and hence, the testimony of PW-8 HC Ram Lal and PW-6 LHC Narpat Ram that recovery was effected in Dhan Dev's presence cannot be believed, and consequently, their entire version regarding search and seizure becomes unbelievable.

22. PW-7 Dhan Dev was examined by the prosecution to prove another fact, viz., he carried one of the two sample parcels from Malkhana to the laboratory of the Chemical Examiner. So, he confined his statement only to this fact. It was known to the defence side that PW-7 Dhan Dev was

cited as a witness of search and recovery because copies of the challan and other papers filed therewith had been supplied to the appellant before the start of the trial. Memo. Ext.PW6/C not only records that Dhan Dev was one of the two witnesses of the search and seizure, but it also bears his signature as one of the witnesses. Now when it was known to the defence that Dhan Dev was a witness of search and seizure and the prosecution examined him to prove some other fact and not the fact of search and seizure, because one witness, namely PW-6 LHC Narpat Ram had already been examined and Investigating Officer PW-8 HC Ram Lal was also going to be examined to prove the fact, defence could have cross-examined PW-7 Dhan Dev with regard to the search and recovery. No suggestion was put either to PW-6 LHC Narpat Ram or PW-8 HC Ram Lal that Dhan Dev (PW7) was not on the spot, nor was any such suggestion put even to PW-7 Dhan Dev, in the cross-examination.

23. In view of the above-stated position, no inference or presumption is required to be drawn against the prosecution for PW-7 Constable Dhan Dev not testifying about the search and seizure, even though he was a witness thereto and had even signed the search and seizure memo as a witness.”

28. Thus, in view of the precedent, the prosecution is free to examine the witness with regard to one fact, even if he had witnessed more than one fact. Hence, the prosecution's case cannot be doubted because the witnesses did not depose anything about the recovery in their examination-in-chief.

29. ASI Avnesh Kumar (PW12) and ASI Vinod Patial (PW13) stated about the place of incident and other proceedings when they were cross-examined by learned defence counsel.

Constable Ankush was not asked about the recovery, and he did not say anything about the recovery. Hence, two witnesses who were asked about the recovery deposed about it, and it cannot be said that the prosecution's case became doubtful because they had not stated anything about the recovery.

30. The witnesses stated consistently about the inspection of the vehicle and the recovery of heroin from it. There is nothing in their cross-examination to doubt their testimonies. The minor contradictions pointed out above are not significant and are bound to come with time. Therefore, the learned Trial Court had rightly relied upon the testimonies of the prosecution's witnesses to hold that the recovery from the vehicle was duly proved.

31. It was submitted that the case property was not resealed, which is fatal to the prosecution's case. This submission is not acceptable. The recovery was made by SHO Kulwant, and if he thought that, being an SHO, he was not supposed to comply with the requirement of Section 55, he cannot be faulted. It was laid down by this Court in *Prem Bahadur Vs State of H.P., 2009 (1) Shim. L.C. 65*, that the provisions of Sections 52 and 55 are not mandatory but directory. When the

investigating officer was the SHO and he had not resealed the case property, believing that, since he was the SHO and there was no such requirement, it was not sufficient to acquit the accused.

It was observed:-

“12. From a perusal of the aforesaid two judgments, it is apparent that the provisions of Sections 52 and 55 are not mandatory but only directory. If there is substantial compliance with the same, the accused cannot be acquitted. If there are sufficient reasons for non-compliance with the Sections, then also the accused cannot claim the benefit of acquittal under these provisions. At best, the Court may have to scrutinise the prosecution evidence with greater care and caution.

13. In the present case, the recovery of the Charas has been proved beyond a reasonable doubt. We cannot lose sight of the fact that the investigating officer, PW6, was also the SHO of the Police Station, Manali. He presumed that he was the in-charge of the police station and, therefore, the provisions of Sections 52 and 55 were not applicable to him. At best, it can be presumed that when he was the investigating officer, some other police officer must be deemed to be in charge of the police station. At best, we can presume that MHC Khem Chand (PW 2) was the in-charge of the police station. However, even if we presume that MHC Khem Chand (PW 2) was the in-charge of the police station, then the mere non-compliance of Sections 52 and 55 by not putting the seal on the sample would not by itself be a ground to acquit the accused.”

32. Therefore, the prosecution cannot be doubted because the case property was not re-sealed by SHO Kulwant Singh (PW16).

33. It was submitted that no entry regarding the withdrawal of the case property from the Malkhana register was made, and this makes the prosecution's case suspect. This submission is not acceptable. The case property was produced before the Court, and the Court issued a certificate of correctness of inventory (Ex.P43/PW16) and passed an order (Ex.P44/PW16) mentioning that the case property was produced before it. It was weighed and its weight was found to be 49 grams. A presumption of correctness is attached to the proceedings of the Court, therefore, the same has to be taken as correct. It clearly shows that the case property was produced before the Court, and mere absence of an entry regarding the withdrawal of the case property from Malkhana will not make any difference.

34. The case property was deposited with Anil Kumar (PW10), who made an entry in the register of Malkhana and deposited it in Malkhana. He handed over the case property to Constable Ashok Kumar (PW7) with the direction to carry it to the Police Station. Ashok Kumar (PW7) deposited the case property in FSL and handed over the receipt to Anil Kumar on his return. The result of the analysis (Ex.PX) shows that the parcel was bearing 08 seals of 'FO' and 05 seals of 'AS', which were

found intact and tallied with the specimen seal. This report establishes that the case property remained intact till its analysis in the laboratory. It was held in *Baljit Sharma vs. State of H.P 2007 HLJ 707*, where the report of analysis shows that the seals were intact, the case of the prosecution that the case property remained intact is to be accepted as correct. It was observed:

“A perusal of the report of the expert Ex.PW8/A shows that the samples were received by the expert in a safe manner, and the sample seal was separately sent, tallied with the specimen impression of a seal taken separately. Thus, there was no tampering with the seal, and the seal impressions were separately taken and sent to the expert also.”

35. Similar is the judgment in *Hardeep Singh vs State of Punjab 2008(8) SCC 557*, wherein it was held:

“It has also come to evidence that to date, the parcels of the sample were received by the Chemical Examiner, and the seal put on the said parcels was intact. That itself proves and establishes that there was no tampering with the previously mentioned seal in the sample at any stage, and the sample received by the analyst for chemical examination contained the same opium, which was recovered from the possession of the appellant. In that view of the matter, a delay of about 40 days in sending the samples did not and could not have caused any prejudice to the appellant.”

36. In *State of Punjab vs Lakhwinder Singh 2010 (4) SCC 402*, the High Court had concluded that there could have been tampering with the case property since there was a delay of seven

days in sending the report to FSL. It was laid down by the Hon'ble Supreme Court that the case property was produced in the Court, and there was no evidence of tampering. Seals were found to be intact, which would rule out the possibility of tampering. It was observed:

“The prosecution has been able to establish and prove that the aforesaid bags, which were 35 in number, contained poppy husk, and accordingly, the same were seized after taking samples therefrom, which were properly sealed. The defence has not been able to prove that the aforesaid seizure and seal put in the samples were in any manner tampered with before it was examined by the Chemical Examiner. There was merely a delay of about seven days in sending the samples to the Forensic Examiner, and it is not proved as to how the aforesaid delay of seven days has affected the said examination, when it could not be proved that the seal of the sample was in any manner tampered with. The seal having been found intact at the time of the examination by the Chemical Examiner and the said fact having been recorded in his report, a mere observation by the High Court that the case property might have been tampered with, in our opinion, is based on surmises and conjectures and cannot take the place of proof.

17. We may at this stage refer to a decision of this Court in *Hardip Singh v. State of Punjab reported in (2008) 8 SCC 557* in which there was a delay of about 40 days in sending the sample to the laboratory after the same was seized. In the said decision, it was held that in view of cogent and reliable evidence that the opium was seized and sealed and that the samples were intact till they were handed over to the Chemical Examiner, the delay itself was held to be not fatal to the prosecution case. In our considered opinion, the ratio of the aforesaid decision squarely applies to the facts of the present case in this regard.

18. The case property was produced in the Court, and there

is no evidence to show that the same was ever tampered with.”

37. Similar is the judgment of the Hon'ble Supreme Court in *Surinder Kumar vs State of Punjab (2020) 2 SCC 563*, wherein it was held: -

“10. According to learned senior counsel for the appellant, Joginder Singh, ASI, to whom Yogi Raj, SHO (PW-3), handed over the case property for producing the same before the Illaqa Magistrate and who returned the same to him after such production was not examined, as such, link evidence, was incomplete. In this regard, it is to be noticed that Yogi Raj, SHO, handed over the case property to Joginder Singh, ASI, for production before the Court. After producing the case property before the Court, he returned the case property to Yogi Raj, SHO (PW-3), with the seals intact. It is also to be noticed that Joginder Singh, ASI, was not in possession of the seals of either the investigating officer or Yogi Raj, SHO. He produced the case property before the Court on 13.09.1996 vide application Ex.P-13. The concerned Judicial Magistrate of First Class, after verifying the seals on the case property, passed the order Ex.P-14 to the effect that since there was no judicial malkhana at Abohar, the case property was ordered to be kept in safe custody, in Police Station Khuian Sarwar till further orders. Since Joginder Singh, ASI, was not in possession of the seals of either the SHO or the Investigating Officer, the question of tampering with the case property by him did not arise at all.

11. Further, he has returned the case property, after production of the same, before the Illaqa Magistrate, with the seals intact, to Yogi Raj, SHO. In that view of the matter, the Trial Court and the High Court have rightly held that the non-examination of Joginder Singh did not, in any way, affect the case of the prosecution. Further, it is evident from the report of the Chemical Examiner, Ex.P-10, that the sample was received with seals intact and that the

seals on the sample tallied with the sample seals. In that view of the matter, the chain of evidence was complete.”
(Emphasis supplied)

38. Therefore, the prosecution version is to be accepted as correct that the case property remained intact till its analysis at SFSL, Junga.

39. The substance was found to be heroin and a sample of Diacetylmorphine after the analysis. Therefore, it was duly proved that the accused was found in possession of 49 grams of heroin.

40. It was submitted that the learned Trial Court acquitted the co-accused, and the appellant is entitled to the benefit of acquittal. This submission would have been important had the Court recorded any finding that the co-accused was not found in the vehicle; however, the learned Trial Court held that the co-accused Abhishek Gupta might not be knowing that the contraband was kept in the car. Therefore, the acquittal was based on the fact that the co-accused might not be aware of the existence of the heroin in the car. Since the petitioner was driving the vehicle and is the son of the owner, therefore, this reason of acquittal by the learned Trial Court cannot be applied to the

appellant, and no advantage can be derived from the acquittal of the co-accused.

41. Thus, the learned Trial Court had rightly convicted the appellant/accused for the commission of an offence punishable under Section 21(b) of the ND&PS Act.

42. It was submitted that the sentence imposed by the learned Trial Court is excessive. Learned Trial Court sentenced the appellant/accused to undergo rigorous imprisonment for 08 years, pay a fine of ₹1.00 lac, and in default of payment of fine, to undergo simple imprisonment for six months. A perusal of the notification issued by the Central Government shows that 05 grams of heroin has been defined as a small quantity, and 250 grams of heroin has been mentioned as a commercial quantity. The punishment for possessing an intermediate quantity can be up to 10 years. It was laid down by the Hon'ble Supreme Court in *Uggarsain v. State of Haryana*, (2023) 8 SCC 109: 2023 SCC OnLine SC 755 that the Courts have to apply the principle of proportionality while imposing sentence. It was observed at page 113:

10. This Court has, time and again, stated that the principle of proportionality should guide the sentencing process. In *Ahmed Hussein Vali Mohammed Saiyed v. State*

of Gujarat [*Ahmed Hussein Vali Mohammed Saiyed v. State of Gujarat*, (2009) 7 SCC 254 : (2009) 3 SCC (Cri) 368 : (2009) 8 SCR 719] it was held that the sentence should “deter the criminal from achieving the avowed object to (sic break the) law,” and the endeavour should be to impose an “appropriate sentence.” The Court also held that imposing “meagre sentences” merely on account of lapse of time would be counterproductive. Likewise, in *Jameel v. State of U.P.* [*Jameel v. State of U.P.*, (2010) 12 SCC 532 : (2011) 1 SCC (Cri) 582 : (2009) 15 SCR 712] while advocating that sentencing should be fact dependent exercises, the Court also emphasised that : (*Jameel case* [*Jameel v. State of U.P.*, (2010) 12 SCC 532 : (2011) 1 SCC (Cri) 582 : (2009) 15 SCR 712], SCC p. 535, para 15)

“15. ... the law should adopt the corrective machinery or deterrence based on a factual matrix. By deft modulation, the sentencing process be stern where it should be, and tempered with mercy where it warrants to be. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration.”

(emphasis supplied)

11. Again, in *Guru Basavaraj v. State of Karnataka* [*Guru Basavaraj v. State of Karnataka*, (2012) 8 SCC 734 : (2012) 4 SCC (Civ) 594 : (2013) 1 SCC (Cri) 972 : (2012) 8 SCR 189] the Court stressed that : (SCC p. 744, para 33)

“33. ... It is the duty of the court to see that an appropriate sentence is imposed, regard being had to the commission of the crime and its impact on the social order”

(emphasis supplied)

and that sentencing includes “adequate punishment”. In *B.G. Goswami v. Delhi Admn.* [*B.G. Goswami v. Delhi Admn.*, (1974) 3 SCC 85: 1973 SCC (Cri) 796 : (1974) 1 SCR 222], the Court considered the issue of punishment and observed that punishment is designed to protect society by deterring potential offenders as well as prevent the guilty

party from repeating the offence; it is also designed to reform the offender and reclaim him as a law-abiding citizen for the good of the society as a whole. Reformatory, deterrent and punitive aspects of punishment thus play their due part in judicial thinking while determining the question of awarding appropriate sentences.

12. In *Sham Sunder v. Puran* [*Sham Sunder v. Puran*, (1990) 4 SCC 731: 1991 SCC (Cri) 38: 1990 Supp (1) SCR 662], the appellant-accused was convicted under Section 304 Part I IPC. The appellate court reduced the sentence to the term of imprisonment already undergone, i.e. six months. However, it enhanced the fine. This Court ruled that the sentence awarded was inadequate. Proceeding further, it opined that : (SCC p. 737, para 8)

“8. ... The court, in fixing the punishment for any particular crime, should take into consideration the nature of the offence, the circumstances in which it was committed, and the degree of deliberation shown by the offender. The measure of punishment should be proportionate to the gravity of the offence. The sentence imposed by the High Court appears to be so grossly and entirely inadequate as to involve a failure of justice. We are of the opinion that to meet the ends of justice, the sentence has to be enhanced.”

(emphasis supplied)

This Court enhanced the sentence to one of rigorous imprisonment for a period of five years. This Court has emphasised, in that sentencing depends on the facts, and the adequacy is determined by factors such as *“the nature of crime, the manner in which it is committed, the propensity shown and the brutality reflected”* [*Ravada Sasikala v. State of A.P.* [*Ravada Sasikala v. State of A.P.*, (2017) 4 SCC 546 : (2017) 2 SCC (Cri) 436 : (2017) 2 SCR 379]]. Other decisions, like: *State of M.P. v. Bablu* [*State of M.P. v. Bablu*, (2014) 9 SCC 281 : (2014) 6 SCC (Cri) 1 : (2014) 9 SCR 467]; *Hazara Singh v. Raj Kumar* [*Hazara Singh v. Raj Kumar*, (2013) 9 SCC 516 : (2014) 1 SCC (Cri) 159 : (2013) 5 SCR 979] and *State of Punjab v. Saurabh Bakshi* [*State of Punjab v. Saurabh Bakshi*, (2015) 5 SCC 182 : (2015) 2 SCC (Cri) 751 : (2015) 3 SCR 590] too, have stressed on the significance and importance

of imposing appropriate, “adequate” or “proportionate” punishments.

43. If this principle is applied to the present case, the appellant/accused possessing 49 grams of heroin would be liable for imprisonment of two years and to pay a fine of ₹20,000/- and not for 08 years and a fine of ₹1.00 lac. The learned Trial Court held that the impact of heroin is severe on society, but the Central Government has already taken care of it while prescribing the quantity. The Legislature also considered the same while providing a range of sentences up to 10 years. Therefore, there is no reason to deviate from the provision of principle of proportionality and the sentence imposed by the learned Trial Court is liable to be interfered with.

44. In view of the above, the present appeal is partly allowed and the appellant/accused is sentenced to undergo rigorous imprisonment for 02 years and to pay fine of ₹20,000/- and in default of payment of fine, to undergo rigorous imprisonment for three months for the commission of an offence punishable under Section 21(b) of ND&PS Act. Subject to this modification, the rest of the sentence awarded by the learned

Trial Court is upheld. The modified warrants be prepared accordingly.

45. Records be sent back forthwith along with copy of the judgment. Pending applications, if any, also stand disposed of.

(Rakesh Kainthla)
Judge

14th May, 2025
(Chander)