

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL No. 1515 OF 2015**

THE STATE OF HIMACHAL PRADESH

APPELLANT

VERSUS

KANSARA MAYUR

RESPONDENT

ORDER

1. The present appeal is arising out of judgment dated 04.06.2015 passed in Criminal Appeal No. 4030 of 2013, *Kansara Mayur v. State of Himachal Pradesh*. The Division Bench of the High Court has set aside the conviction of the respondent for an offence punishable under Section 20(b)(ii)(c) of the ND & PS Act. The sentence awarded by the trial court to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs. 1,00,000/- with a default clause to undergo simple imprisonment for a period of one year has been set aside.

2. The facts of the case reveal that on 15.10.2011, the police party stopped the respondent-accused who was carrying a bag in his right hand, however, on seeing the police party, the accused started running away and he was overpowered. The accused-respondent was

carrying a yellow bag which contained *charas* in the shape of *chapattis* weighing 2kg. 300grams. It was sealed with seal H at 10 places. NCB form in triplicate was prepared, and the seal impression H was affixed on it. Sample seal was taken on piece of cloth. *Rukka* through Constable Kashmir Singh was sent, on the basis of which FIR No. 248/10 dated 15.10.2011 for an offence under Section 20 of NDPS Act was registered in the matter. The contraband was deposited with MHC and it was sent to FSL, Junga. After receiving the report, challan was filed and the prosecution has examined as many as 11 witnesses in support of the prosecution case and the accused was also examined under Section 313 of the Code of Criminal Procedure, though, he pleaded his innocence, he was convicted based upon the evidence adduced before the trial court in the matter.

3. This Court has carefully gone through the statement of witnesses recorded before the trial court as well as the detailed order passed by the High Court after referring minutely to the statement of each and every witness. The High Court after appreciating the evidence on record has observed that the accused was apprehended on National Highway according to PW-1, HC Vijay Kumar, the investigating officer stopped the ongoing vehicles, and the occupants of the vehicles were requested to become witnesses. It has been held that National Highway-21 is a busy highway and for the reasons best known to the police, there is not a single independent witness to support the arrest, search and seizure. The High Court has also observed that it is not a case where recovery was affected from isolated or secluded place. On the contrary, the recovery has been made from National Highway

and the police ought to have associated the independent witnesses being available. Thus, the High Court has raised a doubt over the proceedings relating to arrest, search and seizure.

4. The High Court has, further, held that the case property was deposited in *malakhana* by Additional SHO on 15.10.2011 along with NCB-1 form and sample seals H and A were affixed. The samples were sent to FSL, Junga for chemical examination through PW-8, Constable Kesar Singh. Constable Kesar Singh (PW-8) has deposited the samples at FSL-Junga and the case property was produced while recording statement of PW-1, HC Vijay Kumar. PW-1 has identified the Ex. P-1. The High Court has observed that there is no entry in the *malakhana* register as to when the case property was taken out for being produced in the Court and similarly there is no entry when the case property was re-deposited in the *malakhana*. The High Court has, further, observed that no evidence has come on record as to who produced the case property in the Court. The High Court has, further, held that the entries are required to be made when the case property was taken out from the *malakhana* for production in the Court in Form-19.

5. The High Court has, further, held that an entry is also required to be made when the case property is taken back and re-deposited in the *malakhana*. Thus, in short, the High Court has held that there is neither any entry at the time of taking out the case property nor at the time of re-depositing the same. The High Court has held that there is no DPR report prepared at the time of producing the case

property in the Court and when it was taken back to be re-deposited in the *malakhana*. The High Court has also held that it raises a doubt as to whether the same property which was recovered from the accused was sent to FSL and was produced in the Court or not. The High Court in those circumstances has arrived at a conclusion that the prosecution has not been able to prove the case against the accused beyond reasonable doubt.

6. This Court after carefully considering the evidence on record and after its detailed analysis, is of the firm opinion that the High Court was justified in acquitting the accused of the charges framed against him as the prosecution has failed to prove the case against the accused beyond reasonable doubt. This Court does not find any reason to interfere with the findings arrived at by the High Court of Himachal Pradesh. As a result, the appeal stands dismissed and the bail bonds stand discharged.

7. Pending interlocutory application(s), if any, shall also stand disposed of.

.....J.
[SATISH CHANDRA SHARMA]

.....J.
[SANJEEV SACHDEVA]

**New Delhi;
June 10, 2026.**

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

Criminal Appeal No(s). 1515/2015

THE STATE OF HIMACHAL PRADESH

Appellant(s)

VERSUS

KANSARA MAYUR

Respondent(s)

Date : 10-06-2026 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA
HON'BLE MR. JUSTICE SANJEEV SACHDEVA
[PARTIAL COURT WORKING DAYS BENCH]

For Appellant(s) : Mr. Varinder Kumar Sharma, AOR

Mr. Anubhav Sharma, Adv.

For Respondent(s) : Mr. Vijay Kumar, AOR
Mrs. Sangeeta Kumar, Adv.
Ms. Vidushi Garg, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal stands dismissed in terms of the signed order placed
on the file.

(JATINDER KAUR)
P.S. to REGISTRAR

(SUDHIR KUMAR SHARMA)
COURT MASTER (NSH)