

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 1221/2017

SRI SHANKAR DONGARISAHEB BHOSALE

APPELLANT(S)

VERSUS

THE STATE OF KARNATAKA

RESPONDENT(S)

ORDER

Heard learned counsel for the parties.

The appellant is a taxi driver. On 03.06.2010 at about 08:00 p.m., while the appellant was carrying two passengers, his taxi being Tata India Car No. MH-10-E-3932 was stopped by the Deputy Superintendent Police(for short, 'Dy.S.P.') at Belgaum whereupon the two passengers sitting at the back fled. The vehicle was searched and 20 kilograms of ganja which was packed in two visible bags were seized. The appellant was prosecuted under the Narcotic Drugs and Psychotropic Substances Act, 1985(for short, 'NDPS Act') and was convicted. He was directed to undergo rigorous imprisonment for ten years and to deposit a fine of Rs. 1,00,000/- (Rupees one lakh).

The appellant has already suffered seven

years and one month of actual incarceration and presently, he is on bail.

Learned counsel appearing for the appellant has drawn our attention to the statement of the Dy.S.P. recorded on 22.02.2011, wherein he has admitted that the offending vehicle was a taxi and that when the said vehicle was stopped, the driver of the vehicle made no effort to run away but the two passengers in the car ran away. During the search, no incriminating material was found from the person of the appellant.

The appellant-driver took the defence that he is totally ignorant about the contraband being carried in his vehicle and it may belong to the passengers who have fled from the spot. Therefore, since the contraband cannot be linked to the appellant, he is not liable to be prosecuted. Moreover, the procedure prescribed for the personal search was not followed.

The Courts below have convicted the appellant solely for the reason that the appellant was not able to give details of the passengers. Ordinarily, since it is not disputed that the appellant was a taxi driver and that the contraband was seized from the taxi while he was carrying two

passengers who fled from the scene, it cannot be said with any certainty that the appellant himself was carrying the contraband or has connived to carry the said contraband in his vehicle. It was not expected of any taxi driver to give details of the passengers, as ordinarily, no taxi driver/owner before allowing the passenger to board the taxi ask for such details from the passenger(s). Moreover, no effort was made to search out the two passengers who may reveal the truth.

Considering the fact that no incriminating material was seized from the person of the appellant and that he had not made any effort to run away, moreover, the two bags from which the contraband was seized were not found to be hidden but were rather visible, we find no material on record to link the appellant-driver with the aforesaid contraband so as to prosecute and convict him for any offence under the NDPS Act.

Accordingly, the order impugned passed by the High Court dated 27.11.2012 and that of the Trial Court dated 01.06.2011 are hereby set aside and the present appeal is allowed.

The bail bonds and sureties stand discharged.

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

.....J.
[PANKAJ MITHAL]

.....J.
[AHSANUDDIN AMANULLAH]

NEW DELHI;
JANUARY 09, 2025.

ITEM NO.108

COURT NO.16

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

Criminal Appeal No. 1221/2017

SRI SHANKAR DONGARISAHEB BHOSALE

Appellant(s)

VERSUS

THE STATE OF KARNATAKA

Respondent(s)

Date : 09-01-2025 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PANKAJ MITHAL
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

For Appellant(s) Mr. Manjunath Meled, Adv.
 Ms. Vijayalaxmi Udupudi, Adv.
 Mr. Anil Kumar, AOR

For Respondent(s) Mr. V. N. Raghupathy, AOR
 Mr. Raghavendra M. Kulkarni, Adv.
 Ms. Mythili S, Adv.
 Mr. P. Ashok, Adv.
 Mr. Shiv Kumar, Adv.
 Ms. Vaishnavi, Adv.

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

The present appeal is allowed in terms of the
signed order which is placed on the file.

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

(SNEHA DAS)
SENIOR PERSONAL ASSISTANT

(RAM SUBHAG SINGH)
ASSISTANT REGISTRAR