



2026:CGHC:13912

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1495 of 2024

Judgment Reserved on : 11/03/2026

Judgment Delivered on : 24/03/2026

**1 - Vikash Kumar Ray S/o Lalu Ray Aged About 29 Years R/o Dumari
Bindgama Samstipur (Bihar)**

**2 - Amrit Kumar Sahu S/o Suresh Sahu Aged About 18 Years R/o Street No.
02, Shanti Nagar, Ward No. 04 Rajnandgaon (C.G.)**

--- Appellants

versus

Directorate Of Revenue Intelligence (Dri) Through The Director/deputy
Director Regional Unit 30 Panchsheel Nagar, Civil Line, Raipur Distt. Raipur
(C.G.)

--- Respondent

For Appellants	:	Mr. Pragalbha Sharma, Advocate and Mr. Raza Ali, Advocate
For Respondent/DRI	:	Mr. Anumeh Shrivastava, Advocate

ACQA No. 247 of 2025

Directorate Of Revenue Intelligence (D.R.I.) Raipur Regional Unit, Through
Deputy Director, Directorate Of Revenue Intelligence, Raipur Regional Unit,
30, Panchsheel Nagar, Civil Lines, Raipur, District - Raipur (C.G.) 492001

---Appellant

Versus

Shri Pawan Yadav S/o Shri Ramanand Yadav Aged About 35 Years R/o
Village - Pendri, Ward No.-20, Rajnandgaon (C.G.)

--- Respondent

For Appellant/DRI	:	Mr. Anumeh Shrivastava, Advocate
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For Respondent	:	Mr. Shalvik Tiwari, Advocate
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CRA No. 2595 of 2025

Sajan Yadav S/o Shri Ramanand Yadav, Aged About 32 Years R/o Village-
Pendri, Ward No. 20, Rajnandgaon (C.G.)

---Appellant

Versus

Directorate Of Revenue Intelligence, The Director/Deputy Director, Regional
Unit 30, Panchsheel Nagar, Civil Lines, Raipur, District - Raipur (C.G.)

... Respondent

For Appellant	:	Mr. Rajendra Patel, Advocate
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For Respondent/DRI	:	Mr. Anumeh Shrivastava, Advocate
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Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

C.A.V. Judgment

Per Ramesh Sinha, Chief Justice

1. All these appeals are arising out of same offence and same sessions case, therefore, they are being heard and decided together.
2. The CRA No. 1495 of 2024 has been filed by the two accused persons- Vikash Kumar Ray and Amrit Kumar Sahu against the impugned judgment of conviction and sentence dated 15.07.2024,

passed by learned Special Judge (NDPS Act), Raipur in Special (NDPS Act) Case No. 56 of 2021, whereby the appellants have been convicted for the offence under Sections 20(b)(ii)(C) and 29 of The Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act') and sentenced for R.I. for 10 years with fine of Rs. 1 lakh, in default of payment of fine further R.I. for 2 years for each offences.

3. The CRA No. 2595 of 2025 has been filed by the accused- Sajan Yadav against the impugned judgment of conviction and sentence dated 02.09.2025, passed by learned Special Judge (NDPS Act), Raipur in Special (NDPS Act) Case No. 56 of 2021, whereby the appellant has been convicted for the offence under Sections 25 and 29 of the NDPS Act and sentenced for R.I. for 10 years with fine of Rs. 1 lakh, in default of payment of fine further R.I. for 2 years for each offences.
4. The ACQA No. 247 of 2025 has been filed by the Directorate of Revenue Intelligence, Raipur Regional Unit against the impugned judgment of acquittal dated 15.07.2024, passed by learned Special Judge (NDPS Act), Raipur in Special (NDPS Act) Case No. 56 of 2021, whereby the respondents/accused- Pawan Yadav has been acquitted from the charge of Sections 20(b)(ii)(C), 25 and 29 of the NDPS Act.
5. In the present case, there were five accused persons. During the trial of the case, the accused- Pankaj Kumar Ray has died and the case against him is abated. Earlier, Sajan Yadav was absconding, who was subsequently arrested on 10.01.2025 and he was tried separately.

Trial of three accused persons- Vikash Kumar Ray, Amrit Kumar Sahu and Pawan Yadav were concluded and judgment was passed on 15.07.2024 by the learned trial Court and the two accused persons- Vikash Kumar Ray and Amrit Kumar Sahu were convicted for the offence under Sections 20(b)(ii)(C) and 29 of the NDPS Act, whereas the co-accused Pawan Yadav was acquitted. Against their conviction and sentence, accused Vikash Kumar Ray and Amrit Kumar Sahu have filed their CRA No. 1495 of 2024 and against the acquittal of accused Pawan Yadav, the ACQA No. 247 of 2025 has been filed by the Directorate of Revenue Intelligence (in short 'DRI'). When the co-accused Sajan Yadav was arrested on 10.01.2025, his separate trial was concluded and he was also convicted by the learned trial Court for the offence under Sections 25 and 29 of the NDPS Act vide judgment of conviction and sentence dated 02.09.2025 and he has challenged the same in CRA No. 2595 of 2025.

6. The prosecution's case, in brief, is that, on 11.11.2020, at about 13:20 Hrs, the Intelligence Officer Sanjeet Kumar Singh (PW-2), received a secret information that, about 800 kgs of Ganja is being illegally transporting by a container truck bearing No. CG 08 L 3166, which is going towards Allahabad from Borigumma (Odisha) and it might be passing through the Abhanpur-Raipur Highway near about 4:00 PM to 4:30 PM. The secret information was reduced in writing and it was forwarded to Roshan Kumar Gupta, Senior Intelligence Officer (PW-3) and Nitin Agrawal, Deputy Director (PW-4). Based on the secret information, a search party was constituted by Nitin Agrawal (PW-4) and authorized Sanjeet Kumar Singh for search and seizure

proceeding. The said search and seizure party consists with Nitin Agrawal himself, Roshan Kumar Gupta (PW-3), Sandeep Kumar (PW-7) and Sanjeet Kumar Singh (PW-2). They called two independent panch witnesses and they were informed about the secret information. Along with the search party and independent witnesses, they proceeded towards Atal Chowk, Abhanpur and waited for the suspected truck. At about 4:10 PM, the suspected container truck bearing No. CG 08 L 3166 came there and the search party stopped the said container truck, in which three persons were sitting. The driver disclosed his name as Pankaj Kumar Ray and two other persons have disclosed their names as Vikash Kumar Ray and Amrit Kumar Sahu. Initially, they evaded by transportation of Ganja in the truck, however on interrogation the accused Pankaj Kumar Ray disclosed that they Ganja is being transporting in the vehicle, which is kept in secret chamber prepared inside the cabin. When the investigating officer Sanjeet Kumar Singh opened the secret chamber by removing the plywood, they found N-number of packets kept in secret chamber and one of the packets was torn. The contents of torn packet were physically identified by seeing, rubbing and smelling and it was found to be of Ganja. Since, it was the busy road and in order to maintain the public tranquility, they have taken the said container truck and the accused persons to the office of the Directorate of Revenue Intelligence, Panchsheel Nagar Raipur with the consent of the accused persons and panch witnesses. After removing the plywood, one packet was taken out from the secret chamber, which was marked as P-1 and its contents were physically identified by rubbing and smelling and it was found to be of Ganja. All other packets were also

taken out, which were 155 packets in number and all the packets were marked as P-1 to P-155. Out of total 155 packets, on random checking of 7 packets by Narcotics Kit, the Ganja contents were found positive. The packets were weighed on the spot and the total weight of 155 packets were comes to 657.255 kgs, however due to calculation mistake, it was written in the panchnama as 680.492 kgs. From the said container truck, one SBI Debit Card issued in the name of Rohit Yadav, the documents relating to truck bearing No. CG 08 L 3166 and CG 08 AH 1783 were recovered. From the documents, the truck No. CG 08 L 3166 was found to be registered in the name of accused- Sajan Yadav and the truck No. CG 08 AH 1783 was found to be registered in the name of Shankar Rai, resident of Atal Awas, Sundara, Rajnandgaon. Two number plates bearing No. CG 08 AH 1783 have also been recovered from the cabin of the said container truck along with various toll and petrol pump receipts. Further, the said container truck has not fixed its rear number plate. On being interrogation, the accused persons have disclosed that they were planned to change the number plate of the truck after crossing the Raipur city by replacing the number plate of truck number CG 08 AH 1783 and for that reason, they kept two number plates bearing the said truck numbers. From each packets, 2-2 packets of 30 grams each were taken out and sampling were drawn in presence of the witnesses and the accused persons. It was separately sealed and numbered as P-1/S-1 and P-1/S-2 to P-155/S-1 and P-155/S-2. All the 310 sample packets were sealed by the seal of DRI. The total 155 packets were refilled in 37 bags, which were marked as B-1 to B-37 and it was also sealed with the seal of DRI. Thereafter, the 37 bags, all the sample packets,

container truck bearing No. CG 08 L 3166, the documents and number plates of the trucks bearing No. CG 08 L 3166 and CG 08 AH 1783, toll and petrol slips and ply sheet and debit card were seized. On being interrogation it was disclosed by the accused persons that, the owner of the truck Sajjan Yadav and his brother Pawan Yadav are engaged in illegal transportation of Ganja and they are running Patna-Bihar Dhaba at village Pendri, Rajnandgaon, however the owner of the vehicle was not found in the Dhaba. The 37 bags of Ganja, 310 samples, seized truck bearing No. CG 08 L 3166, two number plates of CG 08 AH 1783, the mobile phones were kept in safe custody of Malkhana of DRI, Raipur. The statements of the accused persons under Section 67 of the NDPS Act were recorded, in which they disclosed the involvement of illegal transportation of Ganja and then, they were arrested. The accused persons were medically examined. After completion of search and seizure proceeding and process of investigation, criminal complaint was filed by DRI before the learned trial Court for the offence under Sections 8(c), 20(b)(ii)(C), 25, 27(A) and 29 of the NDPS Act.

7. The learned trial Court has framed charge against three accused persons Pankaj Kumar Ray, Vikash Kumar Ray and Amrit Kumar Sahu for the offence under Sections 20(b)(ii)(C) and 29 of the NDPS Act, whereas the charge against the accused Pawan Yadav has been framed under Sections 20(b)(ii)(C), 25 and 29 of the NDPS Act. The accused persons denied the charge and claimed trial. Accused Sajjan Yadav was absconding at that time.

8. In order to prove the charge against the accused persons, the prosecution has examined as many as 09 witnesses. Two court witnesses Pankaj Khandagale (CW-1) and Kapil Gaur (CW-2) with respect to absconding of the accused Sajan Yadav have been recorded. Statement of the accused persons under Section 313 of CRPC have also been recorded, in which they denied the circumstances that appears against them, pleaded innocence and have submitted that, they have been falsely implicated in the offence. The accused Vikash Kumar Ray has further submitted that he was brought from his village to Rajnandgaon for employment as a driver and he was unaware about the articles loaded in the vehicle.
9. During the trial, the accused Pankaj Kumar Ray has died on 11.08.2023 and the case against him was abated vide order dated 21.08.2023 passed by learned trial Court.
10. During pendency of the trial against other accused persons, the co-accused Sajan Yadav was arrested on 10.01.2025, charge against him was also framed on 10.07.2025 for the offence under Sections 25 and 29 of the NDPS Act. He too has denied the charge and claimed trial. In his separate trial, vide order dated 16.07.2025, the learned trial Court gave option to the prosecution as well as the accused Sajan Yadav, as to whether they want to examine, cross-examine, re-examine or re-cross-examine the witnesses, who have already been examined earlier with respect to the other accused persons, then the prosecution/DRI submitted before the learned trial Court that, they do not want to examine any other witnesses apart from the witnesses,

who have already been examined earlier. Learned counsel appearing for the accused Sajan Yadav also submitted before the learned trial Court on 16.07.2025 that they do not want to cross-examine any prosecution witnesses, who have been cross-examined earlier. Their submissions regarding not to examine and cross-examine the witnesses were obtained in writing in the counter part of the order dated 16.07.2025 with the signature of respective counsel of the parties and accused Sajan Yadav. His statement under Section 313 of CRPC has also been recorded, in which he denied the circumstances that appears against him, pleaded innocence and has submitted that he is innocent and has been falsely implicated in the case.

11. After appreciation of oral as well as documentary evidence led by the prosecution in separate trial against accused Sajan Yadav, he has also been convicted and sentenced by the learned trial Court vide its judgment of conviction and sentence dated 02.09.2025. Hence these appeals.
12. It is necessary to mention here that during the course of hearing of the appeal on 11.02.2026, learned counsel appearing for the appellant Vikash Kumar Ray submitted that the opportunity to cross-examine the investigating officer Sanjeet Kumar Singh (PW-2) was not provided to him, as the right to cross-examine the witness was forfeited on 21.02.2024 for the reason that his counsel could not appear for cross-examination of the witness. Learned counsel for the appellant Vikash Kumar Ray was also submitted that as per the provisions of Section 304 of CRPC, the trial Court was under obligation to provide legal aid, if the counsel engaged by the accused could not appear in the case

and permit him to cross-examine the witness. Absence of cross-examination of the witness would affect his legal right of fair and impartial trial. Considering the submissions of learned counsel appearing for the appellant Vikash Kumar Ray, this Court, vide its order dated 11.02.2026, directed the trial Court to recall the Investigating Officer Sanjeet Kumar Singh (PW-2) on 25.02.2026 for his cross-examination by the accused Vikash Kumar Ray. Pursuant thereof the Investigating Officer Sanjeet Kumar Singh (PW-2) was cross-examined by the learned counsel appearing for the accused Vikash Kumar Ray on 25.02.2026 and the record of the case is transmitted to this Court, thereafter, all these appeals are being heard together on 11.03.2026.

13. Mr. Raza Ali, learned counsel appearing for the accused- Vikash Kumar Ray would also submit that, there are material inconsistencies in the evident of prosecution witnesses with respect to search and seizure of the alleged Ganja from the truck. The appellant Vikash Kumar Ray was a driver and during the course of his employment, he has taken the truck towards Allahabad on the instructions of its owner. He was brought to Rajnandgaon for employment as a driver. He was not aware about the secret chamber prepared in the cabin of the truck and Ganja was loaded in it. It was a concealed chamber and was not visible. The prosecution could not establish that the secret chamber and Ganja loaded in it was within the knowledge of the driver/appellant Vikash Kumar Ray. He would further submit that the respondent/DRI recorded the statements of the accused persons under Section 67 of the NDPS Act, which is the confessional statement of the accused

persons before the police authorities and is not admissible in evidence. The conscious possession of the alleged Ganja has not been proved by the prosecution against the accused Vikash Kumar Ray. There are various instances of lapses in investigation. The mandatory provisions of Sections 42, 52-A, 55 and 57 of the NDPS Act have not been complied with in its requirement. In such inconsistent evidence and lack of procedural compliance in search and seizure proceeding makes the entire case of the prosecution doubtful and the appellant is entitled for acquittal.

14. Mr. Pragalbha Sharma, learned counsel appearing for the accused-Amrit Kumar Sahu would submit that the prosecution has failed to prove its case beyond reasonable doubt. There are material omissions and contradictions in the evidence of the prosecution witnesses. The independent witness Amit Kumar Agnihotri (PW-1) has not been duly supported the prosecution case and there are material inconsistencies in his evidence with that of the evidence of other witnesses. The learned trial Court failed to consider that the prosecution witnesses are mainly the police witnesses. The mandatory provisions of NDPS Act have not been complied with. The procedure for search and seizure and also for sampling have not been drawn in accordance with law. There are substantial flaw in the inventory proceedings conducted by the Judicial Magistrate. The procedure for sending the samples to the FSL have also not been followed, which casts a serious doubt on the authenticity of the seized samples and the chain of custody. There is no reliable or cogent material on record to connect the appellant with the offence in question. The prosecution has failed to prove the

conscious possession of the contraband Ganja beyond reasonable doubt, which is a sine qua non for conviction under the NDPS Act. In absence of strict compliance with the statutory and mandatory provisions of the NDPS Act and in view of defective investigation and doubtful recovery, the conviction and sentence of the appellant cannot be sustained.

15. Mr. Rajendra Patel, learned counsel appearing for the accused- Sajan Yadav would submit that, there is no incriminating evidence against the appellant to convict him for the alleged offence in question. The appellant Sajan Yadav has not been convicted for the offence under Section 20(b)(ii)(C) of NDPS Act and he has been convicted only under Sections 25 and 29 of NDPS Act. He was not found on the spot and he has been made accused only on the ground that the seized truck is owned by him. He has been implicated in the offence on the basis of ownership of the truck and the statements made by the accused persons under Section 67 of the NDPS Act, which are inadmissible in evidence. Although, the appellant Sajan Yadav is the registered owner of the container truck, but the prosecution failed to establish the knowledge or any conspiracy with the other accused persons for illegal transporting of Ganja by his truck. He never permitted his vehicle for any illegal purposes. The knowledge that his vehicle was being used for illegal transporting of Ganja is the mandatory requirement for conviction under Section 25 of the NDPS Act, which is missing in the case. The telephonic conversations or call details record are not sufficient to hold that the appellant Sajan Yadav was having knowledge of illegal transportation of Ganja by his truck. In

his normal course of business, he took the location of the truck from its driver, which cannot impute his knowledge. There are various components missing in the case with respect to the search and seizure proceedings and the appellant Sajan Yadav cannot be held responsible for transportation of illegal Ganja and he is also entitled for acquittal.

16. Per contra, Mr. Anumeh Shrivastava, learned counsel appearing for the respondent/DRI would submit that, the prosecution has proved its case beyond reasonable doubt. But for minor omissions or contradictions, the evidence of prosecution witnesses are reliable and sufficient to hold guilty of the accused persons. All the mandatory provisions for search and seizure proceedings, sampling, sending the sample to FSL examination have duly been complied with by the prosecution/DRI. The alleged Ganja was kept in a secret chamber prepared in the cabin of the container truck and one cannot say that the driver of the truck was not in knowledge of the secret chamber, so prepared in the cabin. It was not a small cabin, but a big chamber, in which about 680.492 kgs Ganja were kept. He would also submit that the driver is the master of the vehicle and he would expected to know every details of the vehicle and in the present case, he was well within the knowledge about secret chamber prepared in the cabin and Ganja was loaded in it. A small quantity of Ganja is smelling with strong incense, but in the present case, the huge quantity of Ganja would definitely make uncomfortable atmosphere in the cabin due to its incense. The seizure of number plates and registration papers of another truck bearing No. CG 08 AH 1783 itself shows their culpable

mental state and to change the identity of the vehicle at different points of time. There was no reason to keep the two number plates of other vehicle and its registration paper with the container truck bearing No. CG 08 L 3166 and there is no explanation from the accused persons for the same. The accused persons were found in occupation of the said vehicle, in which such a huge quantity of Ganja was loaded in a secret chamber and seized by the respondent/DRI. The accused persons were found in the said vehicle and they were having conscious possession of the alleged Ganja and having their knowledge, they are engaged in illegal transporting of the same. He would further submit that running of the vehicle from Jagdalpur side towards Allahabad by its empty career itself creates doubt on the defence taken by the accused persons. The way to enter in the secret chamber is from the inside of the cabin and it was covered by a ply-sheet fixed by the screws (nuts and bolts). The accused Sajan Yadav was having regular contact with the accused persons throughout their journey from Odisha till the seizure of the Ganja, which proved through the call details and tower locations of the mobile phones of the accused persons. The seizure of Ganja was made in the procedure prescribed for the same and sampling were also drawn in accordance with law. The inventory was prepared by the Executive Magistrate and two samples of 30 grams each were separated from each of the packets seized from the secret chamber of said container truck. There are sufficient evidence about sealing and keeping the seized articles in the safe custody of Malkhana.

17. He would further submit that the accused Pawan Yadav has wrongly been acquitted by the learned trial Court. There are sufficient evidence against him also that he was running a Dhaba along with his brother Sajan Yadav and just beside the Dhaba, the secret chamber was prepared in the cabin of the seized truck. The preparation of the secret chamber in body building workshop in the premises of the Dhaba impute the culpable mental state of the accused Pawan Yadav to use it for illegal purpose, in which Ganja was being transported. He in connivance of other accused persons committed the offence. There are sufficient evidence on record that he too was connected with the other accused persons through the mobile phone at the relevant point of time, yet he has been acquitted by the learned trial Court holding that there is no sufficient evidence against him, however there are sufficient and overwhelming evidence available on record against the accused Pawan Yadav and he is also liable for his conviction.
18. Mr. Shalvik Tiwari, learned counsel appearing for the respondent/ accused Pawan Yadav (in ACQA No. 247 of 2025) would supported his acquittal from the offences and would submit that there is absolutely no evidence on record to show that he conspired with other accused persons and abetted the other accused persons for the alleged offence of illegal transporting of Ganja by permitting them to use of his Dhaba. He is the brother of co-accused Sajan Yadav and both of them running Dhaba jointly. In their premises, the body building workshop was running there, where the secret chamber in the seized container truck was prepared. The call details record and mobile location analysis directly connects him with the other accused

persons, who are found in possession of such a huge quantity of Ganja in the container truck No. CG 08 L 3166. The learned trial Court has properly appreciated the evidence against him and has acquitted by holding that the evidence against him is not sufficient to hold guilty for the alleged offence. He would further submit that the law is well settled in the appeal against acquittal. Learned trial Court extended the benefit of doubt in favour of the accused Pawan Yadav and acquitted him and in absence of any cogent and clinching evidence, he cannot be convicted by altering the findings of acquittal recorded in his favour. In support of his submission, he would rely upon the judgment of **State of Rajasthan v. Kistoora Ram**, 2022 SCC Online SC 984.

19. We have heard learned counsel for the parties and perused the record of the trial Court with utmost circumspection for considering all these aforesaid appeals.
20. PW-2, Sanjeet Kumar Singh is the Investigating Officer. He stated in his evidence that on 11.11.2020 he received a secret information that, about 800 kgs Ganja is being transporting in a container truck from Borigumma, Odisha to Allahabad (U.P.) via Abhanpur-Raipur and the truck number is CG 08 L 3166. In the truck, three persons were there and they kept Ganja in a specially created secret chamber. The time of arrival near Abhanpur is also disclosed i.e. about 4:00 to 4:30 PM. He prepared a secret information note (exhibit P-2). The said secret information note was forwarded to his Senior Intelligence Officer Roshan Gupta (PW-3) and Deputy Director, Nitin Agrawal (PW-4), Directorate of Revenue Intelligence. They authorized him to be the

search officer for the search and seizure proceeding. He called two panch witnesses Omprakash and Amit Kumar Agnihotri (PW-1). He informed the panch witnesses about secret information and requested to assist in search and seizure proceeding and after their oral consent, they proceeded towards the place disclosed in the secret information. They reached near Atal Chowk, Abhanpur at about 3:30 PM. At about 4:10 PM, the said container truck bearing No. CG 08 L 3166 came there and on being stopped the vehicle, they found three persons sitting in the truck. On being asked, the driver of the truck informed his name as Pankaj Rai and shown his driving license. The two other persons have disclosed their names as Vikash Kumar Ray and Amrit Sahu. Initially, Pankaj Rai tried to evade answering the query, however he was being interrogated repeatedly, he disclosed that they kept Ganja in the vehicle in a secret chamber. He also disclosed that the way to approach secret chamber is from inside of the cabin. When they checked the cabin of the truck, they found that there was a secret chamber prepared behind the seat of the helper, which was concealed by a plywood and tied with screw. They got opened the screws and removed the plywood and found that N-number of packets wrapped with brown-coloured tape kept in the secret chamber. One packet was found torn. The contents of the torn packet was found to be of Ganja after its rubbing and smelling.

Since the place was a public place and busy road and to avoid any risk to any person, they took the container truck and accused persons to Directorate of Revenue Intelligence, Panchsheel Nagar, Raipur. One packet from the secret chamber from the said truck was

taken out marked as P-1 and its contents was also taken out after opening the packet. It was found that the flowering and seeding part of the plant including dried leaves was kept in compressed condition and on being rubbing and smelling it was identified as Ganja, thereafter the contents were also examined through the narcotic kit, which also give the positive report of Ganja. All the packets were taken out from the secret chamber specially created in the cabin of the truck and marked as P-2 to P-155. The contents of packet No. P-2, P-21, P-34, P-47, P-72, P-91, P-97, P-119, P-127 and P-142 were also examined through narcotic kit and their report also comes positive to be of Ganja. Thereafter, all the packets were separately weighed and packet-wise details were prepared. The total weight of the 155 packets comes to 697.255 kgs, however by mistake the panchnama bears with 680.492 kgs. On being carefully checked the cabin of the container truck No. CG 08 L 3166, they recovered one SBI Debit Card, which was in the name of Rohit Yadav, two files of the documents of truck No. CG 08 L 3166 and CG 08 AH 1783. From the documents of the truck, it was found that the registered owner of the truck No. CG 08 L 3166 is Sajan Yadav and the registered owner of the truck No. CG 08 AH 1783 is Shankar Rai. Two number plates of the truck No. CG 08 AH 1783 was also recovered from the cabin of the container truck No. CG 08 L 3166. The seized container truck does not have any number plate on its rear side. In the cabin of the container truck, toll and petrol receipts have also been recovered.

When the accused persons were interrogated, they disclosed that after crossing the Raipur city, they planned to change the number

plate of the truck by the number plate of CG 08 AH 1783. They also disclosed that, they are transporting the Ganja on the instance of Sajan Yadav and Pawan Yadav. He also issued notices (exhibit P-3 and P-4) to Sajan Yadav and Pawan Yadav. On being service of notice, Pawan Yadav appeared at DRI Office, Raipur. From the total 155 packets, two packets of 30 grams each were separated for sample, which were kept in zip lock packet and kept in yellow envelopes and marked as P-1/S-1 and P-1/S-2 to P-155/S-1 and P-155/S-2. All the total 310 sample packets were sealed by seal No. 23 of the DRI, in which the signature of the panch witnesses, accused persons Pankaj Kumar Rai, Vikash Kumar Ray and Amrit Sahu and his own signature. After taking out the samples, the remaining Ganja was also seized along with the container truck No. CG 08 L 3166, the documents of the truck No. CG 08 L 3166 and CG 08 AH 1783, toll and petrol receipts, two number plates of CG 08 AH 1783, Debit Card and ply-sheet, which was fixed for hiding the secret chamber. The remaining packets of Ganja was refilled in 37 bags and it was marked as B-1 to B-37 and the same were also sealed by seal No. 23 of DRI. The entire search proceeding was continued up to 4:00 AM on 12.11.2020 and signature of panch witnesses, officers of the DRI and all the three accused persons Pankaj Kumar, Vikas Ray and Amrit Sahu were taken in the every page of the documents. He also prepared a panchnama (exhibit P-1). The seized articles were kept in safe custody of Malkhana at DRI Raipur and he recorded the statements of the accused persons Vikash Kumar Ray (exhibit P-5) and Amrit Sahu (exhibit P-6) under Section 67 of the NDPS Act. The accused persons were arrested and their arrest memo are exhibit P-7,

P-8, P-9 and P-10. They have been medically examined by the doctor and their reports (exhibit P-11 to P-15) were obtained. The mobile phones from accused Vikash Kumar Ray and Amrit Sahu were also seized vide seizure memo (exhibit P-16 and P-17). On 13.11.2020, at about 11:30 AM, he forwarded the details of the proceeding under Section 57 of the NDPS Act to Senior DRI Roshan Kumar Gupta, which is exhibit P-18. The 37 bags, which were kept in the Malkhana of DRI, Raipur were taken out and kept in safe custody of Malkhana of CGST Raipur and its memo is exhibit P-19. He also deputed Gaurav Pandey (PW-5) for conducting the procedure under Section 52-A of the NDPS Act and his memo is exhibit P-20. Along with the authorization letter (exhibit P-21), he deposited the sample packets to Central FSL, Bhopal for its chemical examination and obtained acknowledgment (exhibit P-23). He also conducted the search of residential house of accused Sajan Yadav on 22.01.2021 along with Gaurav Pandey and panchnama (exhibit P-24) was prepared.

In his cross-examination, he reaffirmed the proceedings, which he conducted during search after receiving the secret information. Though in cross-examination, he admitted that the truck was stopped at Abhanpur and they conducted the proceeding at Panchsheel Nagar in their office premises, however, on the earlier part of his evidence he explained that Abhanpur road was a busy road and to avoid any inconvenience to the local people and in view of the risk in the proceeding, they took the vehicle to the office premises at Panchsheel Nagar, Raipur and conducted the proceeding, the change of place of the proceeding does not affect the process of the search proceeding.

The photograph of the truck annexed with the document (exhibit P-1) is the photograph of the cabin. He denied that the accused Amrit Sahu was implicated in the offence on the basis of the mobile call details.

When the matter was remitted back to the learned trial Court for further cross-examination by the accused Vikash Kumar Ray vide order dated 11.02.2026 passed by this Court in the appeal, he was further cross-examined on 25.02.2026 by the counsel of accused Vikash Kumar Ray. He explained in para 26 of his cross-examination, the conditions under which the said truck was being taken to the office of DRI, Panchsheel Nagar, Raipur. He reiterated receiving of the secret information and all the search and seizure procedure conducted by him. In para 34, he admitted that after seizure of the Ganja, its sample packets were kept in Malkhana of DRI and after some days they kept the same to the Malkhana of GST Office, Raipur. Nothing could be extracted from his cross-examination, which makes his evidence doubtful.

21. PW-1, Amit Kumar Agnihotri is an independent panch witness. He stated in his evidence that on 11.11.2020, he was being called by the officers of DRI and informed about secret information. He gave his consent to be a witness of the search proceeding. They proceeded along with the officers of DRI to Atal Chowk, Abhanpur. The said container truck bearing No. CG 08 L 3166 came there, in which three persons were sitting including the driver. They disclosed about the secret chamber prepared in the cabin. When the authorities opened the secret chamber N-number of brown-coloured packets were found, out of which one packet was already torn. The officer Sanjeet Kumar

identified the contents of the torn packet to be of Ganja. A crowd was gathered there and then to maintain the safety and security, they decided and took the truck to the office of DRI, Raipur. Total 155 packets were recovered from the secret chamber of the container truck, they were of different weights. All the packets were wrapped with brown-coloured tape. From about 10 packets small quantity of its contents were taken out and the contents were checked by the machine kept by the authorities, in which also it was found to be of Ganja. Two sample packets of 30 grams each from all the 155 packets were taken out, which were marked as P-1/S-1 and P-1/S-2. He along with other panch witnesses have signed the documents and the officers of DRI refilled the remaining packets and sealed the same. From the container truck, other number plate, SBI Debit card have also been seized. The accused Vikash, Pankaj and Amrit disclosed that they have planned to change the number plate of the container truck after crossing the Raipur city. The documents of other vehicle and receipt of diesel were also seized. The search proceeding was continued throughout the night up to about 10-11 AM in the next morning and he signed all the documents. In his cross-examination, he also satisfactorily answered all the questions put by the defense and stuck in affirming the search and seizure proceedings in his presence. But for minor omissions or contradictions, his evidence is consistent in search and seizure proceeding and recovery of the Ganja from the container truck found in possession of the accused persons Vikash, Amrit and Pankaj. He being the independent witness duly supported the prosecution's case.

22. PW-3, Roshan Kumar Gupta is the Senior Intelligence Officer has stated in his evidence that, he received the information of secret information from Intelligence Officer Sanjeet Kumar Singh on 11.11.2020, who informed about illegal transportation of Ganja from Borigumma, Odisha to Allahabad (U.P.) via Raipur in the truck No. CG 08 L 3166. He forwarded the said information to Deputy Director, DRI, Nitin Agrawal, which is exhibit P-2. He was a member of search party and he too has proceeded along with the investigating officer and remain present throughout the proceeding and prepared the panchnama (exhibit P-1). He recorded the statement of Pankaj Kumar Ray which is exhibit P-25. The investigating officer sent the report under Section 57 of NDPS Act on 13.11.2020 and thereafter, after the consultation with the higher authorities, Gaurav Pandey, Intelligence Officer was deputed as the investigating officer for further investigation on 10.12.2020. The report is exhibit P-18. From the accused Pankaj Kumar Ray, one mobile phone has been seized vide seizure memo exhibit P-26. In cross-examination, he denied the suggestion given by the defence that no proceeding was conducted in his presence about search and seizure of Ganja. Though he admitted that the report (exhibit P-2) is not addressed to him and timing was also not mentioned, but in view of the other evidences available on record, this Court is of the opinion that it would not have substantial bearing in considering the credibility of the prosecution's case.
23. PW-4, Nitin Agrawal is the Deputy Director of DRI, who also stated that, he received the information about secret information of illegal transportation of Ganja from Borigumma, Odisha to Allahabad (U.P.)

by the said truck No. CG 08 L 3166 through the Senior Intelligence Officer- Roshan Gupta. The copy of information is exhibit P-2. He constituted the search party consists with himself, Roshan Gupta, Sandeep Kumar and Sanjeet Kumar (Investigating Officer). The Investigating Officer Sanjeet Kumar Singh prepared the panchnama (exhibit P-1). He wrote a letter to the District Magistrate for authorization to any Executive Magistrate for inventory under Section 52-A of NDPS Act, which is exhibit P-27. He also wrote a letter on 19.11.2020 for sending the samples to the CFSL Bhopal for its examination which is exhibit P-22 and authorized Sanjeet Kumar to send the sample to the CFSL, Bhopal and his authorization letter is exhibit P-21. He also sent a memo to CFSL, Bhopal, which is exhibit P-29 with respect to examination of samples taken out under Section 52-A of the NDPS Act and authorized Gaurav Tiwari for deposition of the samples to CFSL, and his authorization letter is exhibit P-30 along with the test memo (exhibit P-31). In cross-examination, he remain stuck in the proceeding, which he conducted and stated in his examination in chief.

24. PW-5, Gaurav Pandey was the Malkhana Incharge at DRI, Raipur. He received the seized Ganja and 310 sample packets to keep it in safe custody of Malkhana on 12.11.2020 at 4:15 Hrs. On 18.11.2020, he handed over the said articles to the investigating officer to keep it in GST Malkhana. On 19.11.2020, at about 4:00 PM, he handed over the 155 samples of S-1 marked to investigating officer Sanjeet Kumar, which has been endorsed in Malkhana register. On 20.11.2020, the samples drawn under Section 52-A by the Executive Magistrate, which

were marked as 155 numbers S-1 and 155 numbers S-2 were kept in the Malkhana and endorsed in the Malkhana register. On 25.02.2021, he also received 155 S-1 marked samples from Intelligence Officer Sandeep Kumar along with FSL report, which he kept in Malkhana. On 17.12.2020, the 155 S-1 samples were sent to CFSL through the Intelligence Officer Gaurav Tiwari and the relevant document is exhibit P-32 and P-32C. The examination report was received on 20.06.2021, which was also kept in safe custody of Malkhana and the relevant documents are exhibit P-33 and P-33C. He also brought with him the original register, sample packets drawn and sample packets received after FSL examination, which were drawn under Section 52-A of NDPS Act. The samples taken out by the investigating officer, which was kept in yellow-coloured envelop is articles H-1 to H-155. He also explained the details of the articles mentioned in the envelop. He further stated that after examination from CFSL, he received the sample packets P-1/S-1 to P-155/S-1 in sealed condition with the seal of CFSL, which were marked by the Court as N-1 to N-155. The CFSL report is exhibit P-34. His authorization letter is exhibit P-20. The letter dated 20.11.2020 issued for the proceeding of Section 52-A of NDPS Act is exhibit P-35. On 20.11.2020, the inventory was conducted by the Executive Magistrate Srijan Sonkar, which is exhibit P-36, who taken out the sample P-1/S-1 to P-155/S-1 and P-1/S-2 to P-155/S-2 (total 310 samples). He brought the sample packets with him which were separately kept in separate envelopes, which were marked as Article M-1 to M-155. The photographs of the inventory is article A-1 to A-7. He wrote a letter to Malkhana Incharge of CGST (exhibit P-37) and kept 310 sample packets in safe custody of Malkhana of DRI, Raipur.

Vide letter dated 10.12.2020 (exhibit P-18), he was authorized for further investigation. He further stated that after examination of sample packets P-1/S-1 to P-155/S-1 from CFSL, he received back, which were marked as article L-1 to L-155 and the CFSL report is exhibit P-37. The seized Ganja is destroyed on 23.12.2021 and the relevant document is exhibit P-38.

On 22.01.2021, he conducted search of the house of Sajan Yadav and Pawan Yadav at Rajnandgaon, where he found bank passbook, which were in the name of Rohit Yadav, Udesb Yadav, Ranjeet Yadav, Ranju Devi and Rahul Yadav and panchnama (exhibit P-24) was prepared. He wrote a letter to Punjab National Bank for details of bank account of Pawan Yadav and Sajan Yadav, which is exhibit P-39 and letter to State Bank of India (exhibit P-40). He received information from Central Bank, which is exhibit P-42. He recorded the statement of the mechanic, who prepared the secret chamber in the subject vehicle, which is exhibit P-43. He recorded the statement of Rohit Yadav, which is exhibit P-44 and he also wrote a letter exhibit P-45 to service provider company of the mobile phone for CDR of accused persons Pankaj Kumar Ray, Sajan Yadav and Amrit Sahu. The acknowledgment of deposition of sample packets to CFSL is exhibit P-43.

In cross-examination, he also denied the suggestion given by the defence that, he has not kept the seized article in Malkhana in safe custody. In his further cross-examination, he explained that on 18.11.2020, total 37 bags, 155 packets 671.192 kgs were deposited at GST Malkhana as per document (exhibit P-19). He voluntarily stated

that, the actual weight of contraband was 687.955 kgs. But by mistake it was endorsed as 671.192 kgs in the document (exhibit P-19). In his further cross-examination, he satisfactorily answered the questions put by the defence and remain firmed in the proceedings, which he conducted.

25. PW-6, Sumit Dwivedi is the Inspector at CGST Office, Raipur. He received 37 bags (671.192 kgs Ganja) to keep it in CGST Malkhana and he issued acknowledgment exhibit P-47. On 20.11.2020, he taken out the article for the inventory under Section 52-A and after its sampling it was again given to him on the same day and the relevant memos are P-35 and P-37. On 23.12.2021, the contraband was destroyed and the memo is exhibit P-38 and the seizure register is exhibit P-48. In his cross-examination, he also remained firm that he kept the seized contraband in the same custody of GST Malkhana.
26. PW-7, Sandeep Kumar is the Intelligence Officer and assisted Sanjeet Kumar in the search and seizure procedure and prepared panchnama (exhibit P-1). He recorded the statement of Pawan Yadav on 11.12.2020, which is exhibit P-49 and also seized mobile phone from Pawan Yadav vide seizure memo (exhibit P-50). He obtained the FSL report and sample packets from the concerned CFSL and deposited in the DRI Raipur. In cross-examination the defence could not be able to extract any discrepancy in his evidence, which makes his evidence doubtful.
27. PW-8, Gaurav Tiwari has taken the sample packets to CFSL, Bhopal and his authorization letter is exhibit P-30. PW-9, Mahesh Kumar is

the Head Constable posted at DRI, Regional Unit, Bhopal, who has taken the article to Zonal Unit, Indore for keeping it in safe custody at Malkhana. No questions were put by the defence in the cross-examination of these two witnesses.

28. With respect to the accused Sajan Yadav, who has subsequently been arrested and has been convicted for the offence under Sections 25 and 29 of NDPS Act, the allegation against him is made that he being the owner of the container truck No. CG 08 L 3166 has permitted the other accused persons to illegally transport the contraband and engaged in abetment and criminal conspiracy with the other accused persons. From the said container truck, the registration document of the truck No. CG 08 L 3166 was also recovered and the said container truck was registered in the name of appellant Sajan Yadav. He also has not denied that he is not the owner of the said container truck. In the said container truck, the secret chamber was prepared in the cabin, in which alleged Ganja was kept. In the cabin of the truck, two number plates of the truck No. CG 08 AH 1783 and its registration papers, owned by one Shankar Rai was also recovered. When the appellant Sajan Yadav was found to be registered owner of the subject vehicle and secret chamber was found prepared in the cabin, in which Ganja was being transported by the other accused persons, the mental culpable state of the appellant can be imputed that he was having knowledge of the same. The appellant Sajan Yadav was being charged for the offence under Sections 25 and 29 of the NDPS Act.
29. From the evidence of Investigating Officer (PW-2) Sanjeet Kumar Singh and other witnesses, the search and seizure proceeding as well

as seizure of 697.255 kgs Ganja from the secret chamber of the said container truck was found proved, his involvement and knowledge of transportation of Ganja by his vehicle was also found proved by the learned trial Court. Learned trial Court has further considered the criminal antecedent of the appellant Sajan Yadav with respect to his involvement in the offence of conspiracy and abetment as the appellant Sajan Yadav was an accused in the offence of Crime No. 240 of 2017, registered at Police Station Lalbag, District Rajnandgaon, Crime No. 94 of 2018, registered at Police Station Lalbag, District Rajnandgaon, Crime No. 178 of 2020, registered at Police Station Lalbag, District Rajnandgaon and Crime No. 183 of 2024, registered at Police Station Rajnandgaon for the offences under the NDPS Act and Chhattisgarh Excise Act, 1915, which gives cause to presume his culpable mental state and possession of illicit articles with him.

30. Section 43 of the NDPS Act provides the powers of seizure and arrest in public place which reads as under:

“43. Power of seizure and arrest in public

place- Any officer of any of the departments mentioned in section 42 may:-

(a) seize in any public place or in transit, any narcotic drug or psychotropic substance or controlled substance in respect of which he has reason to believe an offence punishable under this Act has been committed, and, along with such drug or substance, any animal or

conveyance or article liable to confiscation under this Act, any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter VA of this Act;

(b) detain and search any person whom he has reason to believe to have committed an offence punishable under this Act, and if such person has any narcotic drug or psychotropic substance or controlled substance in his possession and such possession appears to him to be unlawful, arrest him and any other person in his company.

Explanation- For the purposes of this section, the expression "public place" includes any public conveyance, hotel, shop, or other place intended for use by, or accessible to, the public."

31. The facts of the case as well as evidence available in the present case makes it clear that the vehicle was being stopped near Weight Bridge at Pratapgarh Sadakpara NH-43. While checking the vehicle, it was found contained with Ganja kept in its secret chamber. Admittedly the vehicle was being checked on the public place i.e. on the main road and the said Ganja was seized/recovered in transit, which was being

carried by the appellants on their vehicle. Therefore, the issue of non-compliance of Section 42 is not applicable in the present case and the police authority have acted under Section 43 of the NDPS Act when the place of occurrence was a public road and accessibility to the public and therefore it fell within the ambit of the public place. In view of the provisions of explanation to Section 43, Section 42 of the NDPS had no application. Despite that the copy of secret information Panchnama were forwarded to the senior officer on the same day which have been proved by the witnesses. The Ganja was recovered and seized while in transit as the contraband were recovered and seized during transit in the container truck, as contemplated in Section 43(a) i.e. "Seize in any public place or in transit", this Court is of the considered opinion that Section 43 of the NDPS Act is applicable and as such, recording for reason for belief and for taking down of information received in writing with regard to the Commission of offence before conducting search and seizure, is not required to be complied with under Section 43 of NDPS Act.

32. In the matter of **Firdoskhan Khurshidkhan vs. State of Gujarat and Another** dated 30.04.2024 reported in **2024 SCC OnLine SC 680** has held in para 18 as under:

"18. Section 42 of the NDPS Act deals with search and seizure from a building, conveyance or enclosed place. When the search and seizure is effected from a public place, the provisions of Section 43 of the NDPS Act would apply and hence, there is no merit in the contention of

learned counsel for the appellants that non-compliance of the requirement of Section 42(2) vitiates the search and seizure. Hence, the said contention is noted to be rejected."

33. In the matter of **State of Haryana vs. Jarnail Singh and Others** reported in **2004 (5) SCC 188** in Para 9 and 10 of its judgment the Hon'ble Supreme Court has held that:

"9. Sections 42 and 43, therefore, contemplate two different situations. Section 42 contemplates entry into and search of any building, conveyance or enclosed place, while Section 43 contemplates a seizure made in any public place or in transit. If seizure is made under Section 42 between sunset and sunrise, the requirement of the proviso thereto has to be complied with. There is no such proviso in Section 43 of the Act and, therefore, it is obvious that if a public conveyance is searched in a public place, the officer making the search is not required to record his satisfaction as contemplated by the proviso to Section 42 of the NDPS Act for searching the vehicle between sunset and the sunrise.

10. In the instant case there is no dispute that the tanker was moving on the public highway when it was stopped and searched. Section 43 therefore

clearly applied to the facts of this case. Such being the factual position there was no requirement of the officer conducting the search to record the grounds of his belief as contemplated by the proviso to Section 42. Moreover it cannot be lost sight of that the Superintendent of Police was also a member of the searching party. It has been held by this Court in *M. Prabhulal vs. Assistant Director, Directorate of Revenue Intelligence* : (2003) 8 SCC 449 that where a search is conducted by a gazetted officer himself acting under Section 41 of the NDPS Act, it was not necessary to comply with the requirement of Section 42. For this reason also, in the facts of this case, it was not necessary to comply with the requirement of the proviso to Section 42 of the NDPS Act."

34. Recently in the matter of **Bharat Aambale vs. The State of Chhattisgarh** in **CRA No. 250 of 2025**, order dated 06.01.2025, the Hon'ble Supreme Court has held that irrespective of any failure to follow the procedure laid under Section 52-A of the NDPS Act if the other material on record adduced by the prosecution inspires confidence and satisfies the Court regarding both recovery and possession of the contraband from the accused, then even in such cases the Courts can without hesitation proceed for conviction notwithstanding any procedural difficulty in terms of Section 52-A of

the NDPS Act.

35. In the matter of **Bharat Aambale** (supra) the Hon'ble Supreme Court in Para 25 to 37 has held as under:

“25. In Noor Aga v. State of Punjab & Anr. (2008) 16 SCC 417, the order of conviction had been set-aside not just on the ground of violation of Section 52A but due to several other discrepancies in the physical evidence as to the colour and weight, and due to the lack of any independent witnesses. In fact, this Court despite being conscious of the procedural deficiencies in the said case in terms of Section 52A observed that the matter may have been entirely different if there were no other discrepancies or if the other material on record were found to be convincing or supported by independent witnesses. The relevant observations read as under: -

“107. The seal was not even deposited in the malkhana. As no explanation whatsoever has been offered in this behalf, it is difficult to hold that sanctity of the recovery was ensured. Even the malkhana register was not produced.

108. There exist discrepancies also in regard to the time of recovery. The recovery memo, Exhibit PB, shows that the time of seizure was 11.20 p.m. PW 1 Kulwant Singh and PW 2 K.K. Gupta, however, stated that the time of seizure was 8.30 p.m. The appellant's defence was that some carton left by some passenger was passed upon him, being a crew member in this regard assumes importance (see Jitendra para 6). The panchnama was said to have been drawn at 10 p.m. as per PW 1 whereas PW 2 stated that panchnama was drawn at 8.30 p.m. Exhibit PA, containing the purported option to conduct personal search under Section 50 of the Act, only mentioned the time when the flight landed at the airport.

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111. In a case of this nature, where there are a large number of discrepancies, the appellant has been gravely prejudiced by their non-examination. It is true that what matters is the quality of the evidence and not the quantity thereof but in a case of this nature where procedural safeguards were

required to be strictly complied with, it is for the prosecution to explain why the material witnesses had not been examined. The matter might have been different if the evidence of the investigating officer who recovered the material objects was found to be convincing. The statement of the investigating officer is wholly unsubstantiated. There is nothing on record to show that the said witnesses had turned hostile. Examination of the independent witnesses was all the more necessary inasmuch as there exist a large number of discrepancies in the statement of official witnesses in regard to search and seizure of which we may now take note."

(Emphasis supplied)

26. Non-compliance or delayed compliance with the procedure prescribed under Section 52A of the NDPS Act or the Rules / Standing Order(s) thereunder may lead the court to draw an adverse inference against the prosecution. However, no hard and fast rule can be laid down as to when such inference may be drawn, and it would all depend on the peculiar facts and circumstances of each case. Such delay or

deviation from Section 52A of the NDPS Act or the Standing Order(s)/Rules thereunder will not, by itself, be fatal to the case of the prosecution, unless there are discrepancies in the physical evidence which may not have been there had such compliance been done. What is required is that the courts take a holistic and cumulative view of the discrepancies that exist in the physical evidence adduced by the prosecution and correlate or link the same with any procedural lapses or deviations. Thus, whenever, there is any deviation or non-compliance of the procedure envisaged under Section 52A, the courts are required to appreciate the same keeping in mind the discrepancies that exist in the prosecution's case. In such instances of procedural error or deficiency, the courts ought to be extra-careful and must not overlook or brush aside the discrepancies lightly and rather should scrutinize the material on record even more stringently to satisfy itself of the aspects of possession, seizure or recovery of such material in the first place.

27. In such circumstances, particularly where there has been lapse on the part of the police in either following the procedure laid down in Section 52A of the NDPS Act or the prosecution

in adequately proving compliance of the same, it would not be appropriate for the courts to resort to the statutory presumption of commission of an offence from the possession of illicit material under Section 54 of the NDPS Act, unless the court is otherwise satisfied as regards the seizure or recovery of such material from the accused persons from the other material on record. Similarly, irrespective of any failure to follow the procedure laid under Section 52A of the NDPS Act, if the other material on record adduced by the prosecution inspires confidence and satisfies the court regarding both the recovery and possession of the contraband from the accused, then even in such cases, the courts can without hesitation proceed for conviction notwithstanding any procedural defect in terms of Section 52A of the NDPS Act.

28. In **Khet Singh v. Union of India** reported in **(2002) 4 SCC 380** this Court held that the Standing Order(s) issued by the NCB and the procedure envisaged therein is only intended to guide the officers and to see that a fair procedure is adopted by the officer-in-charge of the investigation. It further observed that there may, however, be circumstances in which it would not

be possible to follow these guidelines to the letter, particularly in cases of chance recovery or lack of proper facility being available at the spot. In such circumstances of procedural illegality, the evidence collected thereby will not become inadmissible and rather the courts would only be required to consider all the circumstances and find out whether any serious prejudice had been caused to the accused or not. Further it directed, that in such cases of procedural lapses or delays, the officer would be duty bound to indicate and explain the reason behind such delay or deficiency whilst preparing the memo. The relevant observations read as under: -

“5. It is true that the search and seizure of contraband article is a serious aspect in the matter of investigation related to offences under the NDPS Act. The NDPS Act and the Rules framed thereunder have laid down a detailed procedure and guidelines as to the manner in which search and seizure are to be effected. If there is any violation of these guidelines, the courts would take a serious view and the benefit would be extended to the accused. The offences under the NDPS Act are grave in

nature and minimum punishment prescribed under the statute is incarceration for a long period. As the possession of any narcotic drug or psychotropic substance by itself is made punishable under the Act, the seizure of the article from the appellant is of vital importance.

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10. The instructions issued by the Narcotics Control Bureau, New Delhi are to be followed by the officer-in-charge of the investigation of the crimes coming within the purview of the NDPS Act, even though these instructions do not have the force of law. They are intended to guide the officers and to see that a fair procedure is adopted by the officer-in-charge of the investigation. It is true that when a contraband article is seized during investigation or search, a seizure mahazar should be prepared at the spot in accordance with law. There may, however, be circumstances in which it would not have been possible for the officer to prepare the mahazar at the spot, as it may be a chance recovery and the

officer may not have the facility to prepare a seizure mahazar at the spot itself. If the seizure is effected at the place where there are no witnesses and there is no facility for weighing the contraband article or other requisite facilities are lacking, the officer can prepare the seizure mahazar at a later stage as and when the facilities are available, provided there are justifiable and reasonable grounds to do so. In that event, where the seizure mahazar is prepared at a later stage, the officer should indicate his reasons as to why he had not prepared the mahazar at the spot of recovery. If there is any inordinate delay in preparing the seizure mahazar, that may give an opportunity to tamper with the contraband article allegedly seized from the accused. There may also be allegations that the article seized was by itself substituted and some other items were planted to falsely implicate the accused. To avoid these suspicious circumstances and to have a fair procedure in respect of search and seizure, it is always desirable to prepare the seizure mahazar at the spot itself from where the contraband articles were taken

into custody.

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16. Law on the point is very clear that even if there is any sort of procedural illegality in conducting the search and seizure, the evidence collected thereby will not become inadmissible and the court would consider all the circumstances and find out whether any serious prejudice had been caused to the accused. If the search and seizure was in complete defiance of the law and procedure and there was any possibility of the evidence collected likely to have been tampered with or interpolated during the course of such search or seizure, then, it could be said that the evidence is not liable to be admissible in evidence." (Emphasis supplied)

29. A similar view as above was reiterated in the decision of **State of Punjab v. Makhan Chand** reported in **(2004) 3 SCC 453** wherein this Court after examining the purport of Section 52A of the NDPS Act and the Standing Order(s) issued thereunder, held that the procedure prescribed under the said order is merely intended to guide

the officers to see that a fair procedure is adopted by the officer in charge of the investigation and they were not inexorable rules. The relevant observations read as under: -

“10. This contention too has no substance for two reasons. Firstly, Section 52-A, as the marginal note indicates, deals with “disposal of seized narcotic drugs and psychotropic substances”. Under sub-section (1), the Central Government, by a notification in the Official Gazette, is empowered to specify certain narcotic drugs or psychotropic substances, having regard to the hazardous nature, vulnerability to theft, substitution, constraints of proper storage space and such other relevant considerations, so that even if they are material objects seized in a criminal case, they could be disposed of after following the procedure prescribed in sub-sections (2) and (3). If the procedure prescribed in sub-sections (2) and (3) of Section 52-A is complied with and upon an application, the Magistrate issues the certificate contemplated by sub-section (2), then sub-section (4) provides that,

notwithstanding anything to the contrary contained in the Indian Evidence Act, 1872 or the Code of Criminal Procedure, 1973, such inventory, photographs of narcotic drugs or substances and any list of samples drawn under sub-section (2) of Section 52-A as certified by the Magistrate, would be treated as primary evidence in respect of the offence. Therefore, Section 52-A(1) does not empower the Central Government to lay down the procedure for search of an accused, but only deals with the disposal of seized narcotic drugs and psychotropic substances.

11. Secondly, when the very same Standing Orders came up for consideration in Khet Singh v. Union of India this Court took the view that they are merely intended to guide the officers to see that a fair procedure is adopted by the officer in charge of the investigation. It was also held that they were not inexorable rules as there could be circumstances in which it may not be possible for the seizing officer to prepare the mahazar at the spot, if it is a chance recovery, where the officer may not

have the facility to prepare the seizure mahazar at the spot itself. Hence, we do not find any substance in this contention.”

(Emphasis supplied)

30. Thus, from above it is clear that the procedure prescribed by the Standing Order(s) / Rules in terms of Section 52A of the NDPS Act is only intended to guide the officers and to ensure that a fair procedure is adopted by the officer-in-charge of the investigation, and as such what is required is substantial compliance of the procedure laid therein. We say so because, due to varying circumstances, there may be situations wherein it may not always be possible to forward the seized contraband immediately for the purpose of sampling. This could be due to various factors, such as the sheer volume of the contraband, the peculiar nature of the place of seizure, or owing to the volatility of the substance so seized that may warrant slow and safe handling. There could be situations where such contraband after being sampled cannot be preserved due to its hazardous nature and must be destroyed forthwith or vice-verse where the nature of the case demands that they are preserved and remain untouched. Due to such

multitude of possibilities or situations, neither can the police be realistically expected to rigidly adhere to the procedure laid down in Section 52A or its allied Rules / Orders, nor can a strait-jacket formula be applied for insisting compliance of each procedure in a specified timeline to the letter, due to varying situations or requirements of each case. Thus, what is actually required is only a substantial compliance of the procedure laid down under Section 52A of the NDPS Act and the Standing Order(s)/ Rules framed thereunder, and any discrepancy or deviation in the same may lead the court to draw an adverse inference against the police as per the facts of each and every case. When it comes to the outcome of trial, it is only after taking a cumulative view of the entire material on record including such discrepancies, that the court should proceed either to convict or acquit the accused. Non-compliance of the procedure envisaged under Section 52A may be fatal only in cases where such non-compliance goes to the heart or root of the matter. In other words, the discrepancy should be such that it renders the entire case of the prosecution doubtful, such as instances where there are significant discrepancies in the colour or description of the substance seized

from that indicated in the FSL report as was the case in **Noor Aga** (supra), or where the contraband was mixed in and stored with some other commodity like vegetables and there is no credible indication of whether the narcotic substance was separated and then weighed as required under the Standing Order(s) or Rules, thereby raising doubts over the actual quantity seized as was the case in **Mohammed Khalid** (supra), or where the recovery itself is suspicious and uncorroborated by any witnesses such as in **Mangilal** (supra), or where the bulk material seized in contravention of Section 52A was not produced before the court despite being directed to be preserved etc. These illustrations are only for the purposes of bringing clarity on what may constitute as a significant discrepancy in a given case, and by no means is either exhaustive in nature or supposed to be applied mechanically in any proceeding under the NDPS Act. It is for the courts to see what constitutes as a significant discrepancy, keeping in mind the peculiar facts, the materials on record and the evidence adduced. At the same time, we may caution the courts, not to be hyper-technical whilst looking into the discrepancies that may exist, like slight differences in the weight, colour or numbering of

the sample etc. The Court may not discard the entire prosecution case looking into such discrepancies as more often than not an ordinarily an officer in a public place would not be carrying a good scale with him, as held in **Noor Aga** (supra). It is only those discrepancies which particularly have the propensity to create a doubt or false impression of illegal possession or recovery, or to overstate or inflate the potency, quality or weight of the substance seized that may be pertinent and not mere clerical mistakes, provided they are explained properly. Whether, a particular discrepancy is critical to the prosecution's case would depend on the facts of each case, the nature of substance seized, the quality of evidence on record etc.

31. At the same time, one must be mindful of the fact that Section 52A of the NDPS Act is only a procedural provision dealing with seizure, inventory, and disposal of narcotic drugs and psychotropic substances and does not exhaustively lay down the evidentiary rules for proving seizure or recovery, nor does it dictate the manner in which evidence is to be led during trial. It in no manner prescribes how the seizure or recovery of narcotic substances is to be

proved or what can be led as evidence to prove the same. Rather, it is the general principles of evidence, as enshrined in the Evidence Act that governs how seizure or recovery may be proved.

32. Thus, the prosecution sans the compliance of the procedure under Section 52A of the NDPS Act will not render itself helpless but can still prove the seizure or recovery of contraband by leading cogent evidence in this regard such as by examining the seizing officer, producing independent witnesses to the recovery, or presenting the original quantity of seized substances before the court. The evidentiary value of these materials is ultimately to be assessed and looked into by the court. The court should consider whether the evidence inspires confidence. The court should look into the totality of circumstances and the credibility of the witnesses, being mindful to be more cautious in their scrutiny where such procedure has been flouted. The cumulative effect of all evidence must be considered to determine whether the prosecution has successfully established the case beyond reasonable doubt as held in **Noor Aga** (supra).

33. Even in cases where there is non-compliance

with the procedural requirements of Section 52A, it does not necessarily vitiate the trial or warrant an automatic acquittal. Courts have consistently held that procedural lapses must be viewed in the context of the overall evidence. If the prosecution can otherwise establish the chain of custody, corroborate the seizure with credible testimony, and prove its case beyond reasonable doubt, the mere non-compliance with Section 52A may not be fatal. The emphasis must be on substantive justice rather than procedural technicalities, and keeping in mind that the salutary objective of the NDPS Act is to curb the menace of drug trafficking.

34. At this stage we may clarify the scope and purport of Section 52A sub-section (4) with a view to obviate any confusion. Sub-section (4) of Section 52A provides that every court trying an offence under the NDPS Act, shall treat the inventory, photographs and samples of the seized substance that have been certified by the magistrate as primary evidence.

35. What this provision entails is that, where the seized substance after being forwarded to the officer empowered is inventoried, photographed and thereafter samples are drawn therefrom as

per the procedure prescribed under the said provision and the Rules/Standing Order(s), and the same is also duly certified by a magistrate, then such certified inventory, photographs and samples has to mandatorily be treated as primary evidence. The use of the word “shall” indicates that it would be mandatory for the court to treat the same as primary evidence if twin conditions are fulfilled being (i) that the inventory, photographs and samples drawn are certified by the magistrate AND (ii) that the court is satisfied that the entire process was done in consonance and substantial compliance with the procedure prescribed under the provision and its Rules/Standing Order(s).

36. Even where the bulk quantity of the seized material is not produced before the court or happens to be destroyed or disposed in contravention of Section 52A of the NDPS Act, the same would be immaterial and have no bearing on the evidentiary value of any inventory, photographs or samples of such substance that is duly certified by a magistrate and prepared in terms of the said provision. We say so, because sub-section (4) of Section 52A was inserted to mitigate the issue of degradation, pilferage or

theft of seized substances affecting the very trial. It was often seen that, due to prolonged trials, the substance that was seized would deteriorate in quality or completely disappear even before the trial could proceed, by the time the trial would commence, the unavailability of such material would result in a crucial piece of evidence to establish possession becoming missing and the outcome of the trial becoming a foregone conclusion. The legislature being alive to this fact, thought fit to introduce an element of preservation of such evidence of possession of contraband in the form of inventory, photographs and samples and imbued certain procedural safeguards and supervision through the requirement of certification by a magistrate, which is now contained in sub-section (4) of Section 52A. In other words, any inventory, photographs or samples of seized substance that was prepared in substantial compliance of the procedure under Section 52A of the NDPS Act and the Rules/Standing Order(s) thereunder would have to mandatorily be treated as primary evidence, irrespective of the fact that the bulk quantity has not been produced and allegedly destroyed without any lawful order.

37. Section 52A sub-section (4) should not be conflated as a rule of evidence in the traditional sense, i.e., it should not be construed to have laid down that only the certified inventory, photographs and samples of seized substance will be primary evidence and nothing else. The rule of 'Primary Evidence' or 'Best Evidence' is now well settled. In order to prove a fact, only the best evidence to establish such fact must be led and adduced which often happens to be the original evidence itself. The primary evidence for proving possession will always be the seized substance itself. However, in order to mitigate the challenges in preservation of such substance till the duration of trial, due to pilferage, theft, degradation or any other related circumstances, the legislature consciously incorporated sub-section (4) in Section 52A to bring even the inventory, photographs or samples of such seized substance on the same pedestal as the original substance, and by a deeming fiction has provided that the same be treated as primary evidence, provided they have been certified by a magistrate in substantial compliance of the procedure prescribed. This, however, does not mean that where Section 52A has not been complied, the prosecution would be helpless, and cannot prove

the factum of possession by adducing other primary evidence in this regard such as by either producing the bulk quantity itself, or examining the witnesses to the recovery etc. What Section 52A sub-section (4) of the NDPS Act does is it creates a new form of primary evidence by way of a deeming fiction which would be on par with the original seized substance as long as the same was done in substantial compliance of the procedure prescribed thereunder, however, the said provision by no means renders the other evidence in original to be excluded as primary evidence, it neither confines nor restricts the manner of proving possession to only one mode i.e., through such certified inventory, photographs or samples such that all other material are said to be excluded from the ambit of 'evidence', rather it can be said that the provision instead provides one additional limb of evidentiary rule in proving such possession. Thus, even in the absence of compliance of Section 52A of the NDPS Act, the courts cannot simply overlook the other cogent evidence in the form of the seized substance itself or the testimony of the witnesses examined, all that the courts would be required in the absence of any such compliance is to be more careful while appreciating the evidence."

36. Further, in **Surepally Srinivas Vs. State of Andhra Pradesh, 2025 SCC Online SC 683**, the Supreme Court has held in para 13 as under:

“13. In *Bharat Aambale (supra)*, this Court held that the purport of Section 52- A, NDPS Act read with Standing Order No. 1/89 extends beyond mere disposal and destruction of seized contraband and serves a broader purpose of strengthening the evidentiary framework under the NDPS Act. This decision stresses upon the fact that what is to be seen is whether there has been substantial compliance with the mandate of Section 52-A and if not, the prosecution must satisfy the court that such non-compliance does not affect its case against the accused. This is also what has been held in *Kashif (supra)*.”

The judgment passed by Hon'ble Supreme court also affirms that if there has been substantial compliance with the mandate of Section 52-A, minor discrepancies in conducting search and seizure proceeding does not affect its credibility.

37. Upon careful appreciation of the entire evidence available on record, this Court finds that the recovery of a very large quantity of contraband Ganja from the container truck bearing No. CG 08 L 3166 stands duly established. The contraband was not kept in an open or ordinary manner, but was concealed in a specially designed secret chamber

constructed inside the cabin of the vehicle. The existence of such a chamber, its access from within the cabin, and the concealment by plywood fixed with screws clearly indicate a deliberate and well-planned mechanism for transportation of illicit substance.

38. An important incriminating circumstance is the recovery of two number plates and registration documents of another vehicle bearing No. CG 08 AH 1783 from the cabin of the said truck. The presence of these number plates, along with the absence of a rear number plate on the seized vehicle, lends strong support to the prosecution case that the accused persons intended to change the identity of the vehicle during transit to avoid detection. This circumstance cannot be said to be incidental or innocuous; rather, it reflects a conscious and premeditated effort to facilitate illegal transportation of contraband.
39. So far as the defence taken by the appellant/driver Vikash Kumar Ray is concerned, it has been contended that he was brought from his native place merely for employment as a driver and had no knowledge of the contraband concealed in the vehicle. However, this defence does not inspire confidence. The appellant has failed to furnish any explanation as to when, where, and under what circumstances he accompanied other accused persons in the same vehicle. He has also not disclosed any details regarding his employment, the person who engaged him. Such absence of explanation on material aspects creates a serious dent in the defence version.
40. It is also pertinent to note that the owner of the vehicle, namely Sajan Yadav, is a resident of Rajnandgaon and the vehicle is registered at

Rajnandgaon, whereas the alleged transportation route was from Borigumma (Odisha) to Allahabad (Uttar Pradesh). The subject vehicle does not carry any goods in its career and in such condition, one cannot ply the vehicle from Odisha to Allahabad without any consignment, and the circumstances in which the accused persons' control of the vehicle assumes significance and strengthens the prosecution case.

41. Further, the contention that the driver had no knowledge of the secret chamber cannot be accepted. A driver is in control of the vehicle and is expected to be aware of its structural features and condition. The secret chamber in the present case was not a minor or hidden cavity, but a substantial compartment capable of storing above 700 kgs of contraband. It is difficult to accept that such a large modification in the cabin would go unnoticed by the driver who was operating the vehicle over a long distance. Thus, the plea of lack of knowledge appears to be an afterthought and is liable to be rejected.
42. It is evident that the Call Detail Records (CDR) obtained from the mobile numbers of the accused persons present a consistent and reliable chain with respect to their movement, halt, and alleged activities. Their continuous presence from Rajnandgaon to Jagdalpur, thereafter to Borigumma and Koraput, and their eventual return to Raipur, is found to be in consonance with the sequence of events as narrated by them in their statements. Thus, the CDR analysis not only corroborates the statements of the accused persons but also prima facie establishes their active involvement in the illegal transportation of

contraband (ganja) and confirms the participation of the co-accused as disclosed by them.

43. In this context, the statutory presumptions under Sections 35 and 54 of the NDPS Act become relevant. Section 35 raises a presumption of culpable mental state, and Section 54 permits the Court to presume that a person found in possession of illicit articles had knowledge of such possession, unless the contrary is proved. In the present case, once the possession of a huge quantity of contraband from the vehicle occupied by the accused is established, the burden shifts upon the accused to rebut the presumption by leading cogent and convincing evidence.
44. The appellants have failed to discharge this burden. No satisfactory explanation has been offered to rebut the presumption of conscious possession and knowledge. The surrounding circumstances, including the concealment in a secret chamber, recovery of alternate number plates, the manner of transportation, and the absence of any plausible explanation from the accused persons, cumulatively lead to the irresistible conclusion that the accused persons were having conscious possession of the contraband and were actively involved in its illegal transportation.
45. Therefore, in light of the statutory presumptions under Sections 35 and 54 of the NDPS Act, coupled with the cogent evidence adduced by the prosecution, this Court is of the considered opinion that the prosecution has successfully established the culpable mental state

and conscious possession of the contraband on the part of the accused persons beyond reasonable doubt.

46. As a fall out of aforesaid consideration, we are of the considered opinion that there is no force in the appeals filed by the appellants- **Vikash Kumar Ray, Amrit Kumar Sahu and Sajan Yadav**, as the offence against them have been proved by the prosecution/DRI beyond reasonable doubt. Accordingly, their appeals (**CRA No. 1495 of 2024** and **CRA No. 2595 of 2025**) are hereby **dismissed**.
47. The appellants are reported to be in jail. They shall serve the entire sentence awarded by the learned trial Court. The appellants are entitled for set off of their undergone period during the trial as well as during the pendency of the present appeals.
48. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail, where the appellants are undergoing their jail sentence to serve the same on the appellants informing them that they are at liberty to assail the present judgment passed by this Court by preferring their appeal before the Hon'ble Supreme Court with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.
49. Let a copy of this judgment and the original records be transmitted to the trial Court concerned forthwith for necessary information and compliance.

Consideration of ACQA No. 247 of 2025

50. With respect to the consideration of the case against acquittal of the accused Pawan Yadav, we also examined the evidence available on record on the point of view of the scope of consideration in the appeal against acquittal.
51. PW-2, Sanjeet Kumar Singh admitted in para 18 of his cross-examination that, from accused Pawan Yadav, Ganja has not been seized. Admittedly, Pawan Yadav was not on the spot and he made accused on the basis of the statement allegedly given by the accused Vikash Kumar Ray and Amrit Sahu. He also admitted that he has not seized any document with respect to ownership of Patna Bihar Dhaba, Rewa Gahan Rajnandgaon. He voluntarily stated that Pawan Yadav admitted in his statement that he was working at Patna Bihar Dhaba. He also admitted that no Ganja has been seized from Patna Bihar Dhaba and there is no document with respect to his mobile phone have been seized. There is no document on record regarding ownership of the said Patna Bihar Dhaba. At the time of Panchnama, the wife of accused Pawan Yadav namely Rajkumari Yadav was present there. Her signature is there in Panchnama.
52. PW-5, Gaurav Pandey, who was also one of the investigating officer, stated in his cross-examination that, no any contraband was seized from the accused Pawan Yadav and he has not obtained any document with respect to ownership of Patna-Bihar Dhaba, Rewa Gahan. He did not know about his ownership. He voluntarily stated

that Rohit Yadav disclosed in his statement that after death of Mohan Yadav, Sajan Yadav and Pawan Yadav are running the Dhaba.

53. While dealing with the appeal against acquittal preferred by the prosecution/DRI, this Court is conscious of the well-settled principles governing such appeals. Unless the findings recorded by the learned trial Court are perverse, manifestly illegal, or wholly unsupported by evidence, the order of acquittal should not be interfered with. If two views are possible on the basis of evidence available on record, the view favourable to the accused is to be adopted.
54. In the present case, the evidence against the accused Pawan Yadav has been carefully re-appreciated in light of the aforesaid principles. It is an admitted position that no contraband was recovered from his possession. As per the statement of PW-2 Sanjeet Kumar Singh, no Ganja was seized either from the person of Pawan Yadav or from any premises allegedly connected with him, including the Patna Bihar Dhaba. It is also not in dispute that he was not present at the spot at the time of interception and seizure of the contraband from the vehicle.
55. The implication of Pawan Yadav is primarily based on the statements allegedly made by co-accused persons under Section 67 of the NDPS Act. However, such statements, in absence of independent corroboration, cannot be made the sole basis for conviction. The prosecution has failed to adduce any substantive evidence to establish his involvement in the alleged offence of conspiracy or abetment.

56. Further, the prosecution has not been able to produce any documentary evidence to establish the ownership or exclusive control of the Patna Bihar Dhaba allegedly run by Pawan Yadav. Both PW-2 and PW-5 have admitted in their cross-examination that no documents regarding ownership of the Dhaba were seized or placed on record. Even the alleged connection of the accused with the Dhaba is based on oral statements of witnesses, which remain uncorroborated by any reliable documentary evidence.
57. It is also significant that no contraband was recovered from the said Dhaba, nor any material indicating preparation, storage, or facilitation of transportation of Ganja was found there. The mere assertion that a secret chamber in the vehicle was prepared near the Dhaba premises, without any cogent and reliable evidence directly linking Pawan Yadav to such activity, is insufficient to establish his culpability.
58. The evidence relating to mobile phone usage, call detail records, or any form of communication connecting Pawan Yadav with the transportation of contraband is also not substantiated by seizure of relevant devices or supporting documentary proof. In absence of such material evidence, the alleged telephonic connection remains inconclusive. The presence of his wife's signature on the panchnama also does not advance the case of the prosecution, as it does not establish any incriminating circumstance against the accused. It merely indicates her presence at the time of certain proceedings and cannot be construed as evidence of involvement of Pawan Yadav in the offence.

59. In view of the aforesaid deficiencies, this Court finds that the prosecution has failed to establish beyond reasonable doubt that Pawan Yadav had knowledge of, or was in any manner involved in, the illegal transportation of contraband. The chain of circumstances sought to be established against him is incomplete and does not unerringly point towards his guilt.
60. The learned trial Court, after appreciating the evidence on record, has extended the benefit of doubt in favour of the accused Pawan Yadav and acquitted him. This Court does not find any perversity or illegality in the said finding warranting interference. The view taken by the trial Court is a plausible view based on the evidence available on record. The Hon'ble Supreme Court in the case of **Kistoora Ram** (supra) has held that:-

"8. The scope of interference in an appeal against acquittal is very limited. Unless it is found that the view taken by the Court is impossible or perverse, it is not permissible to interfere with the finding of acquittal. Equally if two views are possible, it is not permissible to set aside an order of acquittal, merely because the Appellate Court finds the way of conviction to be more probable. The interference would be warranted only if the view taken is not possible at all."

61. Accordingly, we do not find any merit in the acquittal appeal filed by the prosecution/DRI and accordingly, the **ACQA No. 247 of 2025** is also **dismissed**.
62. The respondent/accused- Pawan Kumar is on bail. His bail bond shall continue for a further period of six months as provided under Section 481 of Bhartiya Nagarik Suraksha Sanhita, 2023.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

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HEAD NOTE

Non-compliance with Section 52-A of the NDPS Act is not per se fatal to the prosecution case, and conviction can be sustained if the overall evidence on record credibly establishes recovery and possession of contraband, with courts required to assess such procedural lapses in light of the totality of evidence rather than on technical grounds alone.