



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

S.B. Criminal Leave To Appeal No. 15/2026
CNR: RJHC010074782026 | URN: CRLLA / 37U / 2026

State Of Rajasthan, Through Pp

----Appellant

Versus

Gopal Singh S/o Lal Singh, Aged About 39 Years, Lamgari Ps
Afzalpur District Mandsaur

----Respondent

For Appellant(s) : Mr. Deepak Choudhary, AAG with
Mr. Sharwan Singh Rathore, Dy.GA
Mr. Kuldeep Singh Rathore
Mr. Ravindra Singh Bhati

For Respondent(s) :

**HON'BLE MR. JUSTICE ANIL KUMAR UPMAN
(Through Video Conferencing)**

Judgment

31/07/2026

1. The instant Criminal Leave to Appeal has been preferred by the appellant-State under Section 419 of the Bharatiya Nagarik Suraksha Sanhita, 2023 against the judgment dated 18.08.2025 passed by the learned Special Judge, NDPS Cases, Sirohi (Raj.) in Special Case (NDPS Case) No.124/2018, whereby the learned Judge acquitted the respondent-accused- Gopal Singh from offences punishable under Sections 8/15 & 8/25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS Act').
2. Brief facts of the case are that on 28.07.2016, Police recovered contraband article weighing 348 kilograms (3 quintals and 48 kilograms) of Poppy Straw from an abandoned Scorpio



vehicle bearing registration No.MP-44-R-0786. After following due process of law, the Police registered a case under NDPS Act and started investigation. On completion of investigation, the police filed challan against the accused persons including the respondent. Thereafter, the charges were framed by the trial court. The accused persons including the respondent denied the charges and claimed trial. During the course of trial, the prosecution examined as many as nineteen witnesses and got exhibited certain documents. Thereafter, statements of accused persons including the accused respondent under section 313 Cr.P.C were recorded. Upon conclusion of the trial, the learned trial court vide impugned judgment dated 18.08.2025 acquitted all the accused persons including the accused respondent. Hence, this Criminal Leave to Appeal against the acquittal of accused-respondent.

3. Learned Public Prosecutor submits that the learned trial Court has erred in acquitting the respondent-accused despite there being sufficient oral as well as documentary evidence available against him. Counsel submits that there exists no evidence which clearly establishes that the accused-respondent at the time of alleged incident was not transporting the contraband article. Counsel submits that the evidence led by the prosecution clearly establishes that the vehicle used for transportation of the contraband was purchased by the respondent-accused from one Sunil Harjani and stood registered in his name and therefore, the findings recorded by the learned trial Court are contrary to the evidence available on record and deserve to be set aside.



4. Heard learned counsel for the State and perused the material available on record including the impugned judgment.

5. Upon perusal of the record, it has come on record that the recovery of contraband article weighing 348 kilograms (3 quintals and 48 kilograms) of Poppy Straw was allegedly recovered from an abandoned Scorpio vehicle bearing registration No.MP-44-R-0786. Upon completion of investigation, the police filed the charge-sheet against the accused persons including the respondent-accused for the offences punishable under Sections 8/15 and 8/25 of the NDPS Act. The respondent-accused has been implicated in the present case primarily on the ground that the vehicle in question was purchased by him from one Sunil. The learned trial Court, after thorough appreciation of the oral as well as documentary evidence available on record, acquitted all the accused persons including the present respondent-accused on the ground that the prosecution failed to establish the guilt of the accused persons beyond reasonable doubt. It is evident from the record, that the prosecution has failed to establish that the co-accused persons were transporting the recovered contraband in the vehicle in question and once the prosecution itself has failed to prove the foundational fact regarding the involvement of the co-accused in the alleged transportation of the contraband, the respondent-accused cannot be held liable merely on the ground that he was the registered owner of the vehicle.

6. At this juncture, it is apposite for this Court to refer to Section 25 of the NDPS Act, which reads as under:-

"25. Punishment for allowing premises, etc., to be used for commission of an offence. —Whoever,





being the owner or occupier or having the control or use of any house, room, enclosure, space, place, animal or conveyance, **knowingly permits it to be used for the commission** by any other person of an offence punishable under any provision of this Act, shall be punishable with the punishment provided for that offence."

7. A perusal of the above quoted section shows why the phrase '*knowingly permits it to be used for*' was included. If a house, room, enclosure, space, place, animal or conveyance, is used to commit an offence, the person who owns the same is not chargeable with the offence under Section 25 of NDPS Act simply because he is the owner of the same.

8. Therefore, the expression '*knowingly*' assumes paramount significance in the context of Section 25 of the NDPS Act. Unless it can be established, at least prima facie, that the accused had conscious knowledge that his house, vehicle, premises, or any other property was being used for the storage, concealment, or transportation of contraband, no offence under Section 25 can be said to be made out. The essential ingredient of knowledge cannot be presumed merely from ownership of the property. The ownership of the vehicle by the petitioner does not, in itself, create any ground whatsoever to prosecute the petitioner under Section 25 of the NDPS Act. It is the responsibility of the prosecution to prove, at least prima facie, that the owner knew that his vehicle was being used for committing an offence under the NDPS Act. Lack of any material that may prove the knowledge, complicity, or participation of the owner in using the vehicle in the commission of the offence under NDPS Act would



result in non-compliance of the ingredients of Section 25 of the Act. Ownership of the vehicle without any material linking the petitioner to the transportation and possession of the contraband goods cannot make him criminally liable and filing of charge-sheet against the owner on the ground of mere registration of the vehicle is, therefore, legally unsustainable. Knowledge or conscious permission forms the sine-qua-non for invocation of Section 25 of NDPS Act.

9. This Court may also gainfully refer to judgment of the Hon'ble Supreme Court in the case of **Balwinder Singh versus Asstt. Commissioner, Customs and Central Excise**, reported in **2005 (4) SCC 146** wherein, it was observed in para-3 as follows:

"3. The present Appellant has been found guilty on the ground that he was the registered owner of the vehicle P.J.A. 8677. Counsel for the Appellant contends that he purchased this lorry in 1982, along with one Kesar Singh but in 1986 he transferred the vehicle to a third party and the Investigating Officer, P.W. 13, who was examined, deposed that during the course of his investigation he came to know that though the present Appellant was the original owner of vehicle bearing Registration No. P.J.A. 8677, he had sold the vehicle to one Sucha Singh in 1986, however, the registration was not changed in his name. **This Appellant was convicted solely for the reason that he was the registered owner of the vehicle P.J.A. 8677. There is no evidence to prove that he knowingly allowed any person to use the vehicle for any illegal purpose. There is also no evidence to prove the conspiracy set up by the prosecution. Therefore, it is clear that though the articles were recovered from the lorry, there is no evidence to show that**



the Appellant had any control over the vehicle nor was he in possession of these drugs. In the result, we allow the appeal and acquit the Appellant Balwinder Singh of all charges framed against him."

10. According to this Court, the Police cannot blindly rely upon Section 35 of the NDPS Act and rope in the owner of the vehicle for the offence under Section 25 of the NDPS Act on the basis of statutory presumption. It is the solemn duty of the prosecuting agency to bring on record cogent material or evidence to discharge the preliminary burden in order to invoke statutory presumption and this presumption cannot be pressed into service or operated in vacuum.

11. The NDPS Act is a special penal statute enacted to combat the grave societal menace of narcotic drugs and psychotropic substances while, at the same time, ensuring that the constitutional guarantee of personal liberty is not sacrificed at the altar of stringent enforcement. The legislative scheme of the Act seeks to maintain a delicate balance between the individual's right to liberty and the compelling public interest in preventing and curbing drug-related offences. Given that the Act prescribes severe punishments and imposes stringent conditions even for the grant of bail, it becomes all the more imperative for the prosecution to strictly discharge its burden of establishing the requisite mental element or culpable knowledge wherever the statute so requires.

12. While the provisions of the NDPS Act undoubtedly deserve strict construction and rigorous enforcement, such strictness



cannot be carried to an extent that undermines the fundamental principles of criminal jurisprudence, which are founded upon the concept of mens rea or mental culpability. This assumes even greater significance in cases where criminal liability is sought to be fastened upon the registered owner of a vehicle for the alleged acts of the driver or any other person found in possession of or transporting contraband. Unless the prosecution is able to prima facie establish that the owner had conscious knowledge of, consented to, or was otherwise complicit in the use of the vehicle for the commission of the offence, criminal liability cannot be inferred merely on the basis of ownership.

13. Adverting to the facts of the present case, this Court is of the opinion that apart from the fact that the petitioner had purchased the vehicle in question, however, the same could not be transferred in his for one or the other reason; there is nothing on record to indicate that the petitioner had any knowledge of, or was aware that the vehicle was being used by the co-accused for the transportation of contraband, therefore, except for the petitioner's ownership of the vehicle, no other evidence has been brought on record to establish any nexus or involvement of the petitioner with the contraband recovered from the possession of the co-accused persons.

14. In view of the aforesaid discussion, this Court does not find any perversity, illegality or manifest error in the findings recorded by the learned trial Court as the view taken by the learned trial Court is a plausible view based on the evidence available on record and no ground is made out for grant of leave to appeal.



15. Accordingly, the present criminal leave to appeal, being devoid of merit, is hereby dismissed.

16. Since no case on merits is made out against the respondent-accused, the application under Section 5 of the Limitation Act seeking condonation of delay in filing the present Criminal Leave to Appeal also stands dismissed.



(ANIL KUMAR UPMAN),J

1/Manoj Solanki