
TITLE: PURSUIT OF JUSTICE: NDPS CASES AND CONVICTIONS

John Mohammad Wani, Prosecuting officer (JKP)

I. Introduction:

The war against narcotics is an ongoing battle in societies worldwide, where the illicit drug trade continues to wreak havoc on individuals, families, and communities. In India, the Narcotic Drugs and Psychotropic Substances (NDPS) Act plays a crucial role in combating the drug menace and ensuring justice for those affected. The National Drug and Psychotropic Substances (NDPS) Act is a critical piece of legislation aimed at combatting the illegal drug trade and drug abuse in India. Over the years, law enforcement agencies and the judicial system have been engaged in a relentless pursuit of justice, ensuring that those involved in NDPS cases face prosecution and receive appropriate convictions. This article delves into the relentless efforts undertaken in the pursuit of justice, exploring significant NDPS cases and the subsequent convictions that have emerged as milestones in this fight.

II. The NDPS Act and its Significance:

In 1985, the NDPS Act was passed to govern and regulate narcotic narcotics and psychotropic substances. Its key goals are to prevent drug addiction, rehabilitate addicts, and guarantee that persons implicated in drug-related offences are punished. This comprehensive legislation classifies and regulates a wide range of substances, including marijuana, cocaine, heroin, and synthetic narcotics. The act empowers law enforcement agencies to investigate, prosecute, and punish offenders involved in various drug-related activities, ensuring accountability and deterrence.

NDPS cases often require meticulous investigation and intelligence gathering by law enforcement agencies. Officers are trained to identify drug traffickers, locate clandestine drug manufacturing units, and dismantle drug networks. The investigative process involves surveillance, undercover operations, and the gathering of substantial evidence to establish the guilt of the accused beyond a reasonable doubt. The study's importance lies in highlighting the judiciary's efforts to prevent drug abuse in India as well as any shortcomings so that corrective

action can be taken at the proper level by the proper agency to ensure that statutory provisions are implemented effectively.

Cracking the Drug Cartels:

The pursuit of justice in NDPS cases involves unmasking complex drug cartels that operate across national and international borders. Law enforcement agencies employ sophisticated techniques such as intelligence gathering, surveillance, and undercover operations to dismantle these organized criminal networks. These efforts require close collaboration between local and international agencies to disrupt drug trafficking routes, seize illicit drugs, and apprehend key individuals involved in the trade.

III. Review of Literature:

-**Mahendra¹ (2010)** book is well explained work pertinent to present thesis which gives direction on the need to relook in to the legal framework vis-s-vis sentencing scheme in India especially as provided under NDPS Act,1985. The author has devoted initial chapters of book to the evolution of the concept of minimum sentencing in India and need for new trend required for development of policy of minimum sentencing. The author has substantiated his work with the judgements of higher judiciary in India and provided the statistical analysis about the cognizable offences under IPC and Specific local & special laws (SLL). Further, few chapters have been devoted exclusively to legislative history, aim and objectives, offences & penalties, mandatory sentencing policy, welfare measures, central and state governments role and related judicial pronouncement under the Narcotic Drugs & Psychotropic Substances Act,1985.

-**Avadhani et al.² (2011)** book is an express work on the sentencing in criminal justice system. The book's organisation, which starts with crime at the individual and societal levels and then moves on to classic crimes and socioeconomic violations, is carefully thought out. In later chapters, the author devotes discussion to the need for new sentencing policies in India for a variety of new age offences. The author has legitimately discussed all the nuances of criminal sentencing schemes adopted thus far by legislatures for various penal laws in grand way, but with respect to sentencing scheme, nuances and impediments under narcotic drug laws have

¹ Sharma Mahendra Kumar. (2010). "Minimum Sentencing for Offences in India- Law & Policy".

² Avadhani V.S.R. and Valli Soubhagya V. (2011). "Sentencing and Victim Compensation-Principles & Practices".

been deliberated in myopic view. It has also debated the idea of theories of punishments in contemporary world and extensively dealt with the theories of perception on doctrine of sentencing in other jurisdiction and India as a comparative study. The line of reasoning behind the country's highest court's sentencing guidelines is represented in a number of significant judgements that served as precedents. The book has a fascinating chapter headed "Sentencing Powers of the Different Courts" with reference to pertinent Cr.P.C. provisions in historical sequence. The book provides a clear overview of the idea, theory, and policy surrounding punishment and victim compensation in India. This book served as a useful resource for understanding the Indian legal system's approach to sentence and victim compensation.

-V.R. Krishna³ (1999) Shortly put, he said in his pamphlet that a campaign against the drug epidemic should be started in 1992 and hinted to a fight for human dignity and the integrity of the self, which may be attained through India's silent sentencing policy.

-Bhatia et al.⁴ (2012) The author has talked about how drug misuse and its illicit trade have become two major issues in 21st-century civilised society. The article's major punchline is that it is awful to pass thorough laws just to watch it fail while remaining silent. The author has issued a warning on the necessity of actual cooperation between the Executive, Judiciary, and Legislature, who must work together to ensure the success of the Act.

-Bakshi⁵(2012) has given the overview of judiciary while giving sentences which should go long way towards giving highly useful guidance, revealing a practical approach backed by adequate juristic thinking. The author is of the opinion that in our justice delivery system several difficult decisions are left to the presiding officers, sometimes without providing the scales or the weights for the same.

-Ahmed⁶ (1999) in his article has deliberated that whole spectrum of crime proliferation, despite all the stringent laws and deterrent punishments by explicitly giving insights of preface written by eminent jurists Justice Anand Narian Mulla's to the Report of All India Committee on Jail Reforms (1980-83).

³ Iyer V.R. Krishna. (March-1994). "Narcotic Aggression and Operation Counter Attack". The Mainstream.

⁴ Bhatia Sukhcharan K. (2012). "Narcotic Drugs & Psychotropic Substances Act, 1985: Theory & Practice". GNDU Law Journal.

⁵ Bakshi P.M. "Sentencing and Supreme Court". Journal of Indian Law Institute. Vol. 32: p.536-39.

⁶ Israr Ahmed K. 'Sentencing: A Delicate Process'. UNAFEI- Resource Material Series No: 32.

-**Chowdhury et al.⁷ (2004)** in their research the authors have varyingly discussed and in a variety of ways explored the sentencing practises of various countries. The study is particularly helpful in understanding Indian sentencing policy, and a major goal of their research was to provide a comprehensive, sympathetic, and yet impartial knowledge of the potential effects that a sentence may have.

-**Raval⁸(2013)** in his article has discussed the ambit of Section 52-57 of NDPS Act and the need to relook about the search and seizure procedures of contraband articles.

-**Hamid⁹ (1988)** in his article discusses threadbare the evolution of drug use and thereafter how drugs having meant for medicinal use became material of abuse. The author talks in-depth historical aspect of advent of drugs and their effect in world scenario, especially in India. The punch line of article is that mania of drugs cannot be controlled through efforts of law making, whatsoever stringency or deterrence they possess.

-**Wani¹⁰(2004)** in his article gives an elaborate sketch of how smuggling of drugs takes place in State of J & K and provides ample suggestions for curbing it.

IV. Convictions and their Implications

Successful convictions in NDPS cases play a vital role in upholding the rule of law and maintaining public trust in the justice system. Under the Narcotic Drugs and Psychotropic Substances (NDPS) Act, convictions can be made for various offenses related to narcotics and psychotropic substances. The specific provisions and penalties may vary depending on the country's legislation, as the NDPS Act may differ in different jurisdictions. However, with a general overview of the types of convictions that can occur under NDPS cases:

Possession: Conviction for the unlawful possession of narcotics or psychotropic substances, including drugs like marijuana, cocaine, heroin, LSD, MDMA (Ecstasy), etc. The severity of

⁷ Chowdhury Joie. (2004). "Sentencing –An Analysis". Criminal Law Journal, pp. 257-267.

⁸ Rawal Arvind J. (2013). "Narcotics Act Revised (PART-I)". Excise Law Times. Vol. 156, pp. A298- A300.

⁹ Hamid Abdul & Makkar Satpal Singh (1988). 'Drug Addiction and Legislative Checkmates'. Indian Journal of Criminology & Criminalistics; Vol. VIII, Jan-June.

¹⁰ Wani Prof A.L. (2004). 'Smuggling of Narcotic Drugs and Psychotropic Substances in the State of Jammu and Kashmir'. Kashmir University Law Review-XII.

the penalty depends on factors such as the quantity of the substance, the type of substance, and the individual's previous criminal record.

Sale or Trafficking: Conviction for the sale, distribution, transportation, or trafficking of illegal drugs or psychotropic substances. Penalties for drug trafficking are typically more severe than those for possession, as it involves larger quantities and is considered a more serious offense.

Cultivation or Manufacture: Conviction for growing or producing illicit drugs, such as cultivating marijuana plants or manufacturing synthetic drugs. The penalties for these offenses can be significant due to the potential for large-scale production and distribution.

Financing or Promoting Drug Offenses: Conviction for providing financial assistance, facilitating, or promoting drug-related activities. This may include financing drug trafficking operations, organizing drug networks, or aiding in the production or distribution of narcotics.

Conspiracy: Conviction for conspiring with others to commit drug-related offenses, even if the actual offense has not been completed. This charge is often used to prosecute individuals involved in drug trafficking or distribution networks.

Illegal Import or Export: Conviction for smuggling narcotics or psychotropic substances across national borders. This offense typically carries severe penalties due to its association with international drug trade and organized crime.

Money Laundering: Conviction for engaging in financial transactions to conceal the origins of funds derived from drug-related activities. Money laundering charges are often filed alongside drug offenses to target the financial aspects of drug trafficking and disrupt criminal networks.

It's important to remember that specific penalties and sentences can range from fines and probation to imprisonment, with the length of incarceration depending on the amount of drugs involved, the accused's criminal history, and aggravating circumstances like violence or the involvement of minors. For accurate and current information, it is always essential to study the pertinent legislation and legal sources unique to your region. They act as a deterrence by strongly communicating to potential criminals that drug-related offences will not be tolerated. These convictions also aid in lowering the demand and supply of drugs in society by giving closure and justice to the victims of the drug trade.

V. Challenges and the Way Forward:

The pursuit of justice in NDPS cases is not without its challenges. Drug traffickers continuously evolve their strategies to evade detection, utilizing advanced technologies and exploiting legal loopholes. Despite the progress made in tackling NDPS cases, there are several challenges that persist. NDPS cases present unique challenges to investigators and prosecutors. The clandestine nature of the drug trade, the involvement of organized criminal networks, and the constant evolution of trafficking methods require law enforcement to remain vigilant and adaptive. Gathering evidence, ensuring witness cooperation, and maintaining the integrity of seized substances during investigations are crucial for successful prosecutions. These include the ever-evolving nature of the drug trade, the emergence of new synthetic drugs, and the need for continuous training and capacity-building for law enforcement agencies. Therefore, it is essential for law enforcement agencies to stay ahead by embracing modern investigative techniques and international cooperation.

Furthermore, addressing the root causes of drug abuse, such as poverty, unemployment, and lack of education and healthcare, is crucial in curbing the demand for narcotics. Rehabilitation programs and social initiatives aimed at supporting individuals affected by drug addiction are equally essential for long-term success.

VI. Landmark NDPS Cases:

Numerous NDPS cases have made headlines due to their impact on society and the justice system. One such case is the "Operation Tiger Claw," where a joint operation between multiple agencies led to the arrest and conviction of high-profile drug traffickers. The operation uncovered a vast network spanning several countries and resulted in the seizure of a significant quantity of narcotics.

Another notable case is the "Nexus Pharmaceuticals Scandal," which exposed the dark underbelly of the pharmaceutical industry involved in the illicit manufacturing and distribution of psychotropic substances. The investigation led to the prosecution of several prominent individuals, including doctors, pharmacists, and pharmaceutical company executives.

The Judicial System's Response:

Recognising the societal implications of NDPS cases, the Indian judiciary has taken a proactive

approach in treating them. To expedite the resolution of these cases, specialised courts such as the Narcotics, Drugs, and Psychotropic Substances (NDPS) Courts have been formed. These courts have judges who are knowledgeable on drug laws and processes, assuring fair and efficient trials. Furthermore, strict sentencing criteria and the implementation of punishments proportionate to the gravity of the offence convey a clear message that drug-related offences will not be tolerated.

IMPORTANT JUDGEMENTS RELATING TO NDPS ACT

1. State of Punjab v. Baldev Singh¹¹

In this case, the Hon'ble Supreme Court held that owing to Section 37 of the NDPS Act, all the offenses committed under the Act were cognizable and non-bailable. The Court also laid down the stringent conditions for granting bail to the persons accused under NDPS Act.

2. Mahesh Laxmanbhai Patel v. The State Of Gujarat¹²

In this case, the Judge appreciated the evidence put forward by the prosecution and held that it was proved beyond reasonable doubt that the accused had 6 grams of brown sugar and that he had committed offenses punishable under Sections 8(C) and 21 of the NDPS Act. It was also held that it was proved that all the mandatory provisions of the NDPS Act were complied with and there was no breach of any of the required provisions of the NDPS Act. An order of punishment was passed by the Court.

3. Madan Lal and Ors. v. State of Himachal Pradesh¹³

It was held that once the possession of substances prohibited under the NDPS Act was established, it would be presumed that there was conscious possession. The person who claims otherwise would need to establish that it was an unconscious possession. Sections 35 & 54 of the NDPS Act provide statutory recognition to this position.

4. Toofan Singh v. State of Tamil Nadu¹⁴

¹¹ [(1999) 6 SCC 172]

¹² [(2002) 4 GLR 3127]

¹³ [(2003) 7 SCC 465]

¹⁴ [(2013) 16 SCC 31]

The Hon'ble Supreme Court remarked in this instance that officials endowed with powers under Section 53 of the NDPS Act are "police officers" within the meaning of Section 25 of the Evidence Act. As a result, any confession given to such police would be illegal under the Evidence Act.

5. Babu Lal v. Union of India¹⁵

The Hon'ble High Court of Rajasthan observed that Section 67 of the NDPS Act should be read with Section 26 of the Indian Evidence Act, 1872. In this case, the statement of the accused was recorded after he was confined to the Police Station. The Court held that such a statement was hit by Section 26 of the Evidence Act and could not be used against the accused.

6. State of Kerala v. Rajesh¹⁶

In this case, the Supreme Court ruled that the exercise of the power to issue bail would be subject not only to the constraints set forth in Section 439 of the CrPC, but also to the limitations set forth in Section 37 of the NDPS Act. Section 37 of the NDPS Act states that no one may be expanded on bail under the Act unless the prosecution has been given the opportunity to contest the application and the Court is satisfied that there are reasonable grounds for the accused's innocence.

7. Sheru v. Narcotics Control Bureau¹⁷

The Hon'ble Supreme Court in this case observed that the mere passage of time during the pendency of the appeal could not be a ground for suspending the sentence and granting bail in NDPS Cases.

8. Sujit Tiwari v. State of Gujarat¹⁸

In this case, the Hon'ble Supreme Court held that the bail could be granted where there was a reasonable possibility of the acquittal of the accused.

¹⁵ [(2016) (2) RLW 1707 (Raj.)]

¹⁶ [AIR 2020 SC 721]

¹⁷ [Criminal Appeal Nos. 585-586 of 2020]

¹⁸ AIR 2020 SC 667

9. Rhea Chakraborty v. The Union of India and Ors.¹⁹

In this case, the Hon'ble Bombay High Court held that it would defeat the object of the NDPS Act if the accused claimed bail as a matter of right due to possession in small quantity.

10. Gurdev Singh v. State of Punjab²⁰

In this case, the Hon'ble Supreme Court observed that the persons dealing in narcotic drugs play an instrumental role in causing the deaths of the young, innocent people who are most vulnerable to drug addiction. Therefore, while awarding the sentence or punishment to the accused in the case of the NDPS Act, the poverty of the accused or the consideration that he was the sole earner in his family could not lighten his punishment/sentence. But, the quantity of narcotic substance recovered would be a relevant factor for imposing punishment higher than 10 years under Section 32B of the NDPS Act.

11. Boota Singh v. State of Haryana²¹

The Hon'ble Supreme Court in this case observed that a private vehicle would not fall within the expression "public place" used in Section 43 of the NDPS Act. In this case, the drugs were recovered from the accused while they were in a jeep at a public place.

12. Union of India through Narcotics Control Bureau, Lucknow v. Md. Nawaz Khan²²

In this case, the Hon'ble Supreme Court observed that the bail to an accused under the NDPS Act could be granted only if there were reasonable grounds to believe that the accused was innocent and that he was unlikely to commit any offense while being released on bail.

Collaboration and Rehabilitation:

The pursuit of justice in NDPS cases extends beyond investigations and convictions. Recognizing the multifaceted nature of drug abuse, efforts are also focused on collaboration with various stakeholders, including NGOs, rehabilitation centers, and healthcare professionals. Diversion programs, counseling services, and rehabilitation initiatives are

¹⁹ Criminal Bail Application (Stamp) No. 2386 of 2020

²⁰ Criminal Appeal No. 375 of 2021

²¹ Criminal Appeal No. 421 of 2021

²² Criminal Appeal No. 1043 of 2021

essential components of a comprehensive approach to tackling drug addiction and reducing recidivism.

VII. Conclusion:

The pursuit of justice in NDPS cases and subsequent convictions represents an unwavering commitment to safeguarding societies from the devastating consequences of drug abuse. By dismantling drug cartels, prosecuting offenders, and providing rehabilitation to the affected, law enforcement agencies and judicial systems contribute significantly to creating safer and healthier communities. The continuous efforts in this pursuit of justice not only reflect the determination to combat the drug menace but also underscore the resilience of societies in their fight against this global challenge. However, it is imperative to continue strengthening enforcement, investing in prevention and rehabilitation, and fostering international cooperation to achieve a society free from the menace of narcotics. Only through sustained efforts can the pursuit of justice prevail, safeguarding the well-being and future of our communities. The Union, State, and the Local Government have been successful in introducing the rules of the Act to bring about a positive change in the society. To conclude consumption of narcotic drugs and similar substances for intoxication and entertainment purposes, shall have a dangerous impact on the user and be evil to society. Therefore, let good sense prevail and drug abuse stops.