

IN THE COURT OF SANDEEP YADAV
SPECIAL EXCLUSIVE COURT/SPECIAL JUDGE NDPS-07,
ROUSE AVENUE COURT, NEW DELHI

IN RE:



SC No. 5/2017
CNR No. DLND01-000075-2017
Crime No. VIII/48/DZU/2015
U/s 20 (b)(ii)(b)/23/28 NDPS Act, 1985

Narcotics Control Bureau
Through Ms. Sarita Kataria
Intelligence Officer, NCB,
DZU, New Delhi.

Vs.

Nympha De Jesus
D/o. Luisito De Jesus
R/o. 089, STO, Cristo San
Isidra Nueva Eeiya, Philippine

.... Accused.

Brief Details of the Case & Memo of Parties

Date of Institution	:	03.01.2017
Date of Arguments	:	10.09.2026
Date of Judgment	:	17.09.2026

A) Session Case No. : 5/2017
B) Charges framed under section : U/s. 20(b)(ii)(B) rw Section 23 (b) NDPS Act against accused.
C) Name of the complainant : Ms. Sarita Kataria
Intelligence Officer, NCB,
DZU, New Delhi.
D) Name of the accused : Nympha De Jesus
E) Plea of the accused persons : Pleaded Not guilty
F) Final Judgment : Convicted
G) Date of Judgment : 17.09.2026

J U D G M E N T

Brief Case of the Prosecution:

1. Accused Nympha De Jesus, a Filipino citizen, has been charged and tried under Section 20 (b)(ii)(B) readwith Section 23 (b) NDPS Act. Prosecution version unfolded during trial may be briefly noted down as under:-

2. Pursuant to a secret information received by Mr.Arvind Ojha, Intelligence Officer, NCB, Delhi Zonal Unit (PW-7) on 30.11.2015 about some contraband/narcotic drugs being concealed in a parcel at DHL Express Courier Company, 71/3, Rama Road, Kirti Nagar, New Delhi-15, a team of NCB was constituted by Ms. Sarita Kataria, Intelligence Officer

(PW-9). The NCB team visited the office of DHL Express Courier Company. At 71/3, Rama Road, Kirti Nagar, New Delhi-15 on 30.11.2015 at about 1230 hours and met Mr. Virender, Security Incharge and other staff of DHL India Pvt. Ltd. On the request of Intelligence Officer Sarita Kataria, Mr. Pankaj Gund, one of the staff members of DHL Express Courier Company volunteered to be the independent witness to the seizure proceedings being conducted at the office of DHL Express Courier Company. Mr. Virender, Security Incharge, produced the parcel bearing no. AWB/Invoice No. 7185479070 and documents of parcel like invoice and ID proof of consignor. Examination of these documents revealed the name of consignor as Nympha De Jesus and name of consignee was mentioned as C.J. Rackham, 20 Queen's Park Road, Brighton, East Sussex, BN2, OGL, U.K. The parcel was opened and was found to contain one black color book. After search, dark brown colour suspect material was removed from the front portion of the book and same gave positive test of Charas. Similarly, dark colour suspicious substance was also recovered from the back cover of the book which also gave positive test for Charas. The substance recovered from front and back cover of the book was mixed and it's weight came out to be 560 grms. Thereafter two samples of 25 grams each were drawn and put inside two small transparent zip lock polythene packet and again put inside two white paper envelopes and were given Mark as A-1 and A2 respectively. Panchnama proceedings were also prepared at the spot and read over to independent witness. Thereafter, NCB team returned to their office. Case property was deposited in the malkhana of NCB.

3. IO Sarita Kataria gave notice under Section 67 NDPS Act to Mr. Pankaj Gund and Mr. Virender Singh and recorded their statements. In his statement Mr. Virender Singh told IO Sarita Kataria that aforesaid parcel was initially booked by consignor at Post Office Connaught Place and destined to U.K. and the parcel came to the office of DHL Express Courier Company for its processing to send the said parcel to UK.

4. On 01.12.2015 Mr. R.S. Joshi, Superintendent, NCB sent sealed envelop Mark A1 duly sealed with the seal of NCB DZU alongwith test memo form and forwarding letter to Mr. Sanjeev Kumar, Sepoy to deliver the same to Chemical Examiner, CFSL, Lodhi Road for analysis of sample. Sample was delivered in Chemical Division of CFSL, New Delhi on 01.12.2015.

5. Mr. R.S. Joshi wrote letter dated 10.12.2015 to the Superintendent, Chandigarh Zonal Unit NCB intimating about the seizure of 560 grams of Charas and the name of consignor having mobile number 9459916286 and requested to provide customer application form (CAF) and call detail record (CDR) of the said mobile as the mobile phone pertained to Himachal Pradesh. In response to letter dated 08.12.2015 of NCB, FRRO vide letter date 21.12.2015 provided stay details of accused in India and also provided the arrival and departure details of accused having passport number EB7744108. It was the revealed that accused stayed at hotel Cottage Yes Please and another hotel Natraj Yes Please at Paharganj on various dates.

Thereafter inquiries were conducted from these hotels and notice under Section 67 NDPS Act was issued to Mr. Rajesh Singh, Manager of Hotel Cottage Yes Please and Mr. Pawan Kumar, Receptionist of Hotel Natraj Yes Please.

6. In his statement, Mr. Rajesh Singh (PW 4) informed about the stay of accused Nympha De Jesus and one Peter Graham Wolledge on 26.11.2015 in hotel Cottage Yes Please at Paharganj whereas on 28.05.2014 and 03.08.2015, accused stayed in the said hotel alone. Mr. Rajesh Singh Singh also provided photocopy of exit/entry register, list of Form C of all the aforesaid dates and photostat copies of passport/visa of accused Nympha De Jesus for 28.05.2014 and 03.08.2015.

7. In his statement, Pankaj Kumar, Receptionist, informed about the stay of accused Nympha De Jesus and Peter Graham Wolledge in hotel Natraj Yes Please at Pahar Ganj on 04.11.2013, 04.12.2013, 15.04.2014, 09.12.2014, 06.01.2015, and 09.03.2015 and also provided photocopy of entry/exit register pertaining to accused Nympha De Jesus and Peter Graham Wolledge, photo copies of passport of accused Nympha De Jesus and Peter Graham Wolledge and photocopy of visa of accused Nympha De Jesus.

8. Sample sent by NCB to CFSL (CBI) Delhi was examined and analyzed by concerned chemical examiner of CFSL (CBI) who prepared the report and confirmed that sample gave positive result for Charas. The

report was collected by NCB. Visa bearing number VJ4099862 issued to accused was verified as per the report received from Embassy of India on 16.03.2016. Passport of accused was also verified by Ministry of External Affairs vide letter dated 16.03.2016. Thereafter various communications were exchanged between NCB and ministry/FRRO for opening the Look Out Corner against accused Nympha De Jesus and Peter Graham Wolledge. Accused Nympha De Jesus was ultimately detained at IGI airport on 04.11.2016 and 2.700 kg of Charas was recovered from her. Statement of accused Nympha De Jesus under Section 67 NDPS Act was recorded and accused Nympha De Jesus was placed under formal arrest on 05.11.2016 at 0550 hours. In this factual background, NCB filed complaint for trial of accused under section 20 (b)(ii)(B), 23 & 28 NDPS Act.

9. Subsequently accused Nympha De Jesus was formally charged under section 20 (b)(ii)(B) rw Section 23 (b) NDPS Act on 02.08.2017. Accused Nympha De Jesus pleaded not guilty and claimed trial. Thereafter, trial commenced and prosecution examined 16 witnesses to prove the charge against accused Nympha De Jesus. After conclusion of prosecution evidence, statement of accused was recorded under Section 313 Cr.PC, wherein accused denied all the incriminating evidence against her and stated that she has been falsely implicated in the present case by misusing her ID for booking the parcel in question. Accused chose not to lead any defence evidence.

10. Arguments addressed at Bar by Mr. Shantanu Jugtawat, Id. Sr. Public Prosecutor and Mr. Manish Gupta, Id. Special Public Prosecutor for NCB as well as and Mr. Gaurav Chandok, Id. Counsel for accused, were heard at length. Written submissions were also filed by both parties which have been perused.

11. Submissions made by Mr. Shantanu Jugtawat, Id. Sr. Public Prosecutor and Mr. Manish Gupta, Id. Special Public Prosecutor for NCB.

(a) Witness who booked the parcel in question containing the contraband correctly identified the accused in the Court.

(b) Accused is also involved in some other case of drug trafficking.

12. Submissions made by Mr. Gaurav Chandok, Id. Counsel for accused.

(a) CCTV footage from DHL Express Courier Company, Hotel Cottage Yes Please and Hotel Natraj Yes Please not produced before the Court. PW 3 Mr. V.B. Ramteka prepared the report, Ex. PW-3/1, without any test as can be seen from his cross examination.

(b) Other person mentioned in the complaint was not apprehended.

(c) Identification document of accused has been misused.

(d) Accused was not in Delhi at the time of recovery of parcel in question from DHL Express Courier Company.

13. **Discussion on evidence adduced by prosecution**

14. PW 2 Dr. Rajender Singh, Retd. Director, CFSL, CBI & PW 3 Mr. V.B. Ramteka, Principal Scientific Officer (Chemistry), CFSL, New Delhi were involved in examination and analysis of sample received from NCB. PW 3 Mr. V.B. Ramteka specifically deposed that contents of exhibits were examined by him and on chemical examination it gave positive test for presence of Charas. PW 3 Mr. V.B. Ramteka proved his report dated 08.02.2016, Ex. PW-3/1, and identified his signatures there on at point A.

15. PW 3 Mr. V.B. Ramteka was cross examined at length by Id. Defence Counsel on various aspects *viz.* method, procedure and techniques of testing and other substance found in sample, compliance with working procedure of Narcotics & Psychotropic substance issued by Directorate of Forensic Science, Ministry of Home Affairs, Govt. of India. PW 3 Mr. V.B. Ramteka gave satisfactory answers to all these questions put by Id. Defence Counsel rendering the report Ex. PW-3/1 reliable and vital piece of evidence.

16. PW 4 Rajesh Singh, Manager, Cottage Yes Please Hotel, Paharganj, New Delhi, came in the witness box and deposed that IO Sarita Kataria (PW 9) from NCB came to him and recorded his statement under Section 67 NDPS Act. PW 4 Rajesh Singh further deposed about furnishing photostat copies of register containing entry of guest of the Hotel Cottage

Yes Please, list of Form C, photocopy of passport and visa of accused, Ex.PW-4/2, to officials of NCB.

17. PW 4 Rajesh Singh specifically deposed that accused stayed in Cottage Yes Please Hotel on three occasions i.e. 28.05.2014, 03.08.2015 & 26.11.2015. Importantly, accused was identified in the Court by PW 4. PW 4 Rajesh Singh was cross examined by Id. Defence Counsel mainly on two aspects *viz.* furnishing/non furnishing of documents pertaining to Peter Graham Wolledge and availability of CCTV footage in the hotel at the relevant time. All queries/questions put to PW 4 regarding Peter Graham Wolledge and answers given by PW 4 are irrelevant as Peter Graham Wolledge was not found to be connected with the parcel in question containing the contraband in any manner whatsoever. Peter Graham Wolledge was treated as suspect by NCB and not as an accused. It was found during investigation that accused Nympha De Jesus and Peter Graham Wolledge were staying and traveling together. Nothing more has come on record to indicate the involvement of Peter Graham Wolledge.

18. Non-production of CCTV footage of the relevant date from the Hotel Cottage Yes Please will not weaken the case of prosecution in view of other evidence that has come on record i.e. documents showing entry and stay of accused in the above said hotels on specific dates, copy of her passport and visa collected from the hotel and oral testimony of PW 4 identifying the accused in the Court.

19. The visa of accused was verified by the Embassy of India wherein passport number of accused was the mentioned as EB7744108 which was the same number which was found mentioned in the copy of passport of accused annexed with the parcel containing the contraband. Thus, the evidence adduced by prosecution unerringly connects the accused with the parcel containing the contraband.

20. PW 5 Mr. R.S. Joshi wrote letter dated 10.12.2015, Ex. PW-5/5 to the Superintendent Chandigarh to provide Customer Application Form (CAF) and Call Detail Record (CDR) of mobile number 9459916286, PW 5 received letter from FRRO, Ex. PW-5/6, regarding arrival/departure details in respect of accused. PW 5 Mr. R.S. Joshi wrote letter, Ex. PW-5/7, to the Under Secretary, Ministry of External Affairs, Government of India demanded details of visa of accused to ascertain identity of accused. PW 5 received letter from FRRO Ex. PW-5/10 on 15.02.2016 regarding verification of visa of accused, arrival and departure details. Details of Peter Graham Wolledge was also received from FRRO vide letter, Ex. PW-5/14.

21. In cross examination, PW 5 Mr. R.S.Joshi admitted that samples were not drawn before Id. Magistrate in the present case. PW 5 was also asked about the reason for issuance of LOC for Peter Graham Wolledge and PW 5 answered that Peter Graham Wolledge was a suspect in the present case.

22. PW 6 Mr.Jai Kishan, Ex. Superintendent, NCB, DZU, Delhi, communicated with NCB Mandi, Sub Zonal Unit regarding verification of address of Peter Graham Wolledge. PW 6 Mr. Jai Kishan also wrote various letters to FRRO for issuance of LOC against accused Nympha De Jesus and Peter Graham Wolledge. PW 6 further deposed that Ms. Sarita Kataria submitted report of arrest of accused under Section 57 of NDPS Act.

23. PW7 Mr. A.K. Ojha received secret information on 30.11.2015 at about 11:30 AM, Ex. PW 5/1, and the information was marked to Ms.Sarita Kataria for necessary action. PW 8 Vikas Yadav, IO, NCB, Headquarter, New Delhi was posted as IO/Malkhana on 30.11.2015 who made entry Ex. PW-8/A in respect of handing over the test memo in duplicate to Sepoy Sanjeev Kumar for sending the same to CFSL/CBI.

24. PW 8 – Ms.Sarita Kataria/IO constituted the team of NCB officials for visiting DHL Express Courier Company office after receipt of information Ex. PW-5/1 and requested the staff at DHL Express Courier Company to join the reading team as independent witness. As per the deposition of PW 8, Pankaj Gund joined the raiding team. PW 9 further deposed about parcel being AWB no. 7185479070 being produced by Virender Singh (PW 14) and documents of parcel i.e. invoice and ID proof, which on examination revealed that the name of consignor was Nympha De Jesus, Natraj Yas Please Hotel, Paharganj, New Delhi. PW 9 Ms. Sarita Kataria further deposed about recovery of 560 grams of Charas from the

parcel and two samples of 25 gram each mark A1 and A2 being drawn from the substance for the purpose of analysis. PW 9 Ms. Sarita Kataria deposed that invoice and ID proof found fixed on the parcel were taken into possession vide memo, PW-9/C (Colly). PW 9 Ms. Sarita Kataria then deposed about issuance of notice under section 67 NDPS Act to Pankaj Gund and Virender Singh for recording of their statement. PW 9 Ms. Sarita Kataria then referred to arrival/departure details in respect of accused provided by FRRO, which revealed that accused stayed in various hotels, including hotel Cottage Yes Please and hotel Natraj Yes Please. PW 9 Ms. Sarita Kataria then referred to LOC being opened against accused vide document Ex. PW-5/16. PW 9 Ms. Sarita Kataria deposed that vide letter dated 07.09.2016, Ex. PW-9/S4, FRRO was requested by Director NCB to prevent the exit of suspect Nympha De Jesus from India. PW 9 Ms. Sarita Kataria also deposed about the information in respect of detention of accused Nympha De Jesus received from Immigration Department, IGI airport and recovery of 2.7 kg Charas from her on 04.11.2016. PW 9 identified accused in the the court. Case property including Charas being recovered from accused in the present case was produced in the Court and was identified by PW 9.

25. PW 9 Ms. Sarita Kataria was cross examined at length by ld. Defence Counsel. PW 9 questioned as to why records from DHL Express Courier Company regarding place from where parcel in question was received in the office of DHL Express Courier Company was not obtained to which PW 9 answered by deposing that during investigation, she came to

know that the parcel in question was booked from Connaught Place Post Office and the statement of booking clerk of the Post Office was recorded. PW 9 was then questioned as to what was the name of test conducted to verify the nature of contraband found inside the parcel and whether from the appearance of the contraband, it was confirmed that it was Charas. PW 9 deposed that there is no particular name of test to be conducted for Charas. As regards, independent witnesses, PW 9 deposed that during search and seizure proceeding at DHL Express Courier Company Office, PW 9 requested Virender Singh (PW 14), who was security Incharge at DHL Express Courier Company Office to join as independent witness but he did not join the proceedings on the premise that he was pre-occupied with some other work. PW 9 volunteered to depose that Virender Singh was present during search and seizure proceedings but he left before completion of proceedings. PW 9 further deposed that no person other than Pankaj Gund agreed to become the witness in the proceedings being conducted at DHL Express Courier Company Office. To a appointed query, PW 9 answered that samples from the contraband were not taken before competent Magistrate under Section 52A of NDPS Act clarifying that there was no such practice at that time. PW 9 asserted that the handwriting on document PW 9/C is of the accused and same was ascertained by comparing the said handwriting with the handwriting of accused. However, PW 9 admitted that the handwriting on the document Ex.PW-9/C was not compared with the admitted handwriting of accused Nympha De Jesus by any handwriting expert.

26. It would have been better if handwriting appearing on the invoice declaration Ex. PW-9/C was compared with the admitted handwriting of accused by any handwriting expert which would have added additional weightage to the case of prosecution. PW 9 was repeatedly questioned as why record from the office of DHL Express Courier Company and Post Office Connaught Place was not seized and collected to which PW 9 clarified that she recorded the statement of employee of DHL Express Courier Company Virender Singh (PW 14) and J C Mehra (PW 13) who was then posted as Postal Assistant at Post Office, Connaught Place which established that the parcel in question was booked from the Post Office Connaught Place and was subsequently sent to DHL Express Courier Company Office. These two Independence independent witnesses namely Virender Singh and J.C. Mehra were examined in the court as PW 14 and PW 13 respectively and both these witnesses identified the accused in the Court. Therefore, the Court found justification given by PW 9 for not collecting any record from DHL Express Courier Company Office and from Post Office Connaught Place as satisfactory.

27. PW 11 Mr. M.M. Jakhmola, Ex. IO, NCB, DZU was part of team constituted by PW 9 Ms. Saroj Kataria after receiving the secret information Ex. PW 5/1. PW 11 Mr. M.M. Jakhmola deposed about visit of team of NCB officials to DHL Courier Company Office, joining of independent witnesses in the proceeding, production of parcel bearing AWB No. 7185479070 by Virender Singh, Security Incharge DHL Express Courier Company, name of consignor, being mentioned on the parcel as

Nympha De Jesus and the fact that 560 grams of Charas was formed from the parcel. PW 11 Mr. M.M. Jakhmola further deposed that invoice and ID proof which were found annexed with the parcel were taken into possession. PW 11 also deposed about notice under Section 67 NDPS Act being issued to independent witness Pankaj Gund and preparation of Panchnama.

28. It is clear from the deposition of PW 11 Mr. M.M. Jakhmola that this witness deposed on very vital aspects of the case as mentioned above. However, this witness was not cross examined by accused. Therefore, the testimony of PW 11 remained unchallenged and unrebutted and the facts deposed to therein are deemed to have been admitted by accused. Failure of accused to cross examine PW 11 amounts to an admission of factum of parcel with 560 gram Charas being found at DHL Express Courier Company Office with ID document in the name of accused Nympha De Jesus being annexed therewith.

29. In *Muddasani Venkata Narsaiah(D)Tr.Lrs vs Muddasani Sarojana - AIR 2016 SC 2250* it was held as under :

“There was no effective cross-examination made on the witnesses with respect to factum of execution of sale deed, PW-1 and PW-2. The cross-examination is a matter of substance not of procedure. One is required to put one’s own version in cross-examination of opponent. The effect of non cross-examination is that the statement of witness has not been disputed. The effect of not cross-examining the witnesses has been considered by this Court in [Bhoju Mandal & Ors. v. Debnath Bhagat &](#)

Ors. AIR 1963 SC 1906. This Court repelled a submission on the ground that same was not put either to the witnesses or suggested before the courts below. Party is required to put his version to the witness. If no such questions are put the court would presume that the witness account has been accepted.”

30. PW 12 Mr. Rahul Pareek who was posted as Assistant Section Officer in Ministry of External Affairs, Patiala Court, New Delhi, referred to the information being given to NCB by Ministry of External Affairs about visa bearing no. VJ4099862 issued in the name of accused Nympha De Jesus vide letter Ex. PW-5/7.

31. PW 13 Mr. J.C. Mehra who was posted as Parcel Assistant at Post Office Connaught Place at the relevant time specifically deposed that on 15.11.2015, one lady came to him for booking of a parcel number along with photocopy of passport and visa in the name of that lady as her ID proof. PW 13 was after seeing the original passport and visa verified that the photo of that lady on the passport and visa is same. PW 13 identified the accused in the Court. PW 13 was Cross examined at length by Id. Defence Counsel but nothing adverse was could be extracted from him. In cross examination, PW 13 was questioned as to whether Connaught Place Post Office received any message or intimation of any irregularity in the parcel booked by accused from Foreign Post Office and PW 13 answered in negative. PW 13 feigned ignorance about any facility at Foreign Post Office for scanning/security checks for parcels received by Foreign Post Office

from other post offices. Testimony of PW 13 which could not be demolished in cross examination is a vital piece of evidence as same is the connecting link which proves that the parcel in question was in-fact booked by accused at the Post Office Connaught Place.

32. PW 14 Virender Singh, an employee of DHL Express Courier Company at the relevant time, joined NCB team when NCB officials reached DHL Courier Company Office on 30.11.2015. PW 14 Virender Singh deposed that he produced and handed over the parcel bearing AWB/Invoice No. 7185479070 and documents related to the parcel to NCB officials and on examining the documents it was revealed that the parcel had been initially booked from Connaught Place Post Office and was destined for UK. As per the deposition of PW 14, the consignor's name on the documents annexed with the parcel was mentioned as Nympha De Jesus. PW 14 Virender Singh specifically deposed that NCB officials opened the parcel which was found to contain Charas approximately 560 grams. PW 14 also referred to samples being taken from the recovered substance. There was no cross examination of PW 14 on any vital aspects of his deposition. Therefore, even the deposition of PW 14 regarding the material facts deposed to by him went unchallenged and unrebutted.

33. PW 15 Sanjeev Kumar, Havaladar, took the sample Mark A1 to CFSL CGO complex and deposited the sample along with test memo in duplicate in intact condition. PW 16 collected the CFSL report on

08.02.2016 from CFSL and handed over the same to Mr. R.S. Joshi superintendent.

34. As per the complaint, despite two letters, written by Zonal Director, NCB DZU on 10.12.2015 & 23.11.2016 to Chandigarh Zonal Unit NCB for verification of address and for obtaining Customer Application Form (CAF) and Call Detail Record (CDR) of mobile 9459916286, no response was forthcoming from Zonal Unit, Chandigarh NCB.

35. It is surprising that one official of NCB at Chandigarh is not co-operating with other official of NCB at Delhi in connection with investigation of present case. Both offices of NCB at Chandigarh and Delhi are under the administrative control of Director General, NCB and if no response was forthcoming from Zonal Unit, NCB Chandigarh regarding the request of NCB DZU Delhi for verification of address and Mobile number of accused, the matter could have been brought to the notice of higher officials of NCB to resolve the issue. However, no sincere and positive efforts were made at the higher level of NCB to verify the address of accused and to obtain CAF and CDR of mobile number of accused. Thus, the very vital piece of evidence which might have connected the accused with the parcel in question was not brought on record by NCB. It is a different matter that overwhelming evidence that has come on record is sufficient to prove the culpability of accused. This serious lapse on the part of officials involved in the investigation of this case deserves the attention of Director, NCB.

36. **Appreciation & Analysis of Evidence and Findings**

37. Cogent, clinching and hard evidence that came on the record during trial connecting the accused Nympha De Jesus with the parcel bearing AWB/Invoice No. 7185479070 containing the contraband material of approximately 560 gram and proving the guilt of accused beyond any shade of doubt can be summarized as under.

(a) **Recovery of approximately 560 grams of Charas from the parcel bearing AWB/Invoice No. 7185479070 at the office of DHL Express Courier Company by the officials of NCB in the presence of independent witness Virender Singh (PW 14).** At least three witnesses namely PW 9 Ms Sarita Kataria, PW 11 Mr. M.M. Jhakmola and PW 14 Mr.Virender Singh, have categorically deposed about the visit of NCB officials to the office of DHL Express Courier Company on 30.11.2015, production of parcel bearing AWB/Invoice No. 7185479070 by PW 14 Virender Singh before NCB officials, consignors name on the parcel being mentioned as Nympha De Jesus, recovery of copy of passport of accused as ID document with the parcel and approximately 560 grams of Charas being found in the parcel. The evidentiary value of these witnesses have already been discussed in the preceding portion of this judgment. At the cost of repetition, testimony of PW 11 Mr. M.M. Jakhmola on all these vital aspects went unchallenged and unrebutted as there was no cross examination of PW 11. Joining of independent witness i.e. PW 14 Virender

Singh, in the proceedings being conducted at DHL Express Courier Company Office lands credence to prosecution version about the parcel bearing AWB/Invoice No. 7185479070 being checked at DHL Express Courier Company Office which which was found containing 560 gras Charas.

(b) **Name of accused being mentioned as consignor on the parcel bearing AWB/Invoice No. 7185479070 and the copy of passport of accused found affixed on the parcel as her ID document.** All the above mentioned witnesses have deposed that copy of passport of accused was found affixed on the parcel as her ID document. In response to a specific question being put to accused during examination under Section 313 CRPC, accused submitted that her ID document was misused in this case for booking the parcel in question. However, accused has not explained as to how copy of her passport was founded affixed with the parcel in question. Initial burden of proving that the parcel was booked on the ID of accused was on the prosecution. Once the prosecution discharged the initial burden, the owns shifted to accused to prove that her ID document found affixed on the parcel in question was misused. Accused miserably failed to discharge the onus as no defence witness was examined by accused nor any circumstance was pointed out in cross-examination of prosecution witnesses by accused to prove the defence of accused that her ID document was misused.

(c) Verification of passport number, EB7744108. Copy of passport of accused found with the parcel in question came on the record as Ex. PW 9/C wherein the passport number is mentioned as EB7744108. The same passport number was mentioned on the copy of passport of the accused recovered from Hotel Cottage Yes Please and Hotel Natraj Yes Please along with copy of her visa. In the verification report dated 16.03.2016 Ex. PW5/17 received from Embassy of India at Bangkok, same passport number is mentioned. Even accused has not denied that passport number EB7744108 belongs to her. Therefore, there is no dispute that the passport number EB7744108 whose copy was found affixed with the parcel in question pertains to accused.

(d) Arrival/departure and stay details of accused provided by FRRO to NCB. FRRO vide letter dated 22.12.2015, Ex. PW-5/6 provided the aforesaid details to NCB which show that accused checked-in in Hotel Cottage Yes Please on 26.11.2015 and departed on 28.11.2015. When investigation was conducted from this hotel as well as hotel Natraj Yes Please, copy of passport and visa of accused and photocopy of form-C were collected from these hotels. These documents furnished the connecting link in the case of prosecution indicating the involvement of accused in the offence. Accused was duly identified in the Court by PW 4 Rajesh Singh, employee of Hotel Cottage Yes Please and PW 13 Mr. J.C. Mehra, in the Court.

(e) **The report Ex. PW 3/1 shows that chemical examination of sample gave positive test of Charas and same was duly proved in the testimony of PW3.** It has already been discussed that testimony of PW3 is coherent and reliable.

38. Mr. Gaurav Chandok, Id. Counsel for accused, raised the plea of *alibi* submitting that accused was not even present in Delhi at the time of recovery of parcel containing the contraband from DHL Express Courier Company. The plea of *alibi* has to be proved by reliable evidence and cannot be accepted only on the basis of oral submission. No evidence or material has been placed on record by accused to prove that she was not present in Delhi at the time of recovery of parcel in question from DHL Express Courier Company. Even if the plea of accused that she was not present in Delhi at the time of recovery of parcel in question is accepted, same will not prove the innocence of accused as documents annexed with the parcel in question have been proved which connect with accused.

39. Accused in cross examination of prosecution witnesses as well as in the arguments has raised the issue of non compliance of Section 52 A NDPS Act and applicable standing orders/rules. This issue has been settled by Hon'ble Supreme Court in *Bharat Aambale vs The State Of Chhattisgarh* decided on 06.01.2025 holding that *mere non-compliance of the procedure under Section 52A or the Standing Order(s) / Rules thereunder will not be fatal to the trial unless there are discrepancies in*

the physical evidence rendering the prosecution's case doubtful, which may not have been there had such compliance been done.

40. It was further held that *Courts should take a holistic and cumulative view of the discrepancies that may exist in the evidence adduced by the prosecution and appreciate the same more carefully keeping in mind the procedural lapses.*

41. In the present case one does not find any discrepancy in physical evidence casting doubt on prosecution's case and therefore, non compliance of Section 52 A or Standing Orders/Rules will not be detrimental to the case of prosecution.

42. From the above discussion is clear that prosecution succeeded in proving beyond any reasonable doubt that accused was found exporting 560 grams Charas from India which is a narcotic drugs within the meaning of Section 2 (xiv) NDPS Act from India and thereby committed the offence under section 23 (b) of NDPS Act.

43. Accordingly, accused Nympha De Jesus is convicted of the offence punishable under Section 23(b) NDPS Act. Let the accused be heard on the point of sentence.

Announced in open Court

(SANDEEP YADAV)
SEC/Spl. Judge NDPS-07,
RACC, New Delhi, 17.09.2026