2025 INSC 692

Non-Reportable

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Special Leave Petition (Crl.) Nos.10424-10425 of 2019

STATE OF U.P.

PETITIONER

VERSUS

RAJESH PATEL ETC.

RESPONDENTS

O R D E R

1. The State is in appeal from the impugned judgment of the High Court which let off the accused, found with a huge cache of narcotic substance, with a flea bite of a sentence.

2. The case of the prosecution was that on prior information of transport of Nitrazepam tablets, the accused travelling on a motorcycle was intercepted. After following due procedure, a black bag carried by the pillion rider was searched from which 44 boxes of Nitrazepam were recovered, one strip containing 50 tablets. The total weight of the Nitrazepam recovered

was 220 grams. Sampling was done and two strips were sealed as A1 and A2 in different envelopes, of which only one was sent for chemical analysis. The forensic lab, on examination of the samples confirmed Nitrazepam but only of 5 grams since a single strip was sent for analysis. This was the reason why the High Court reduced the conviction and sentence, to that applicable to "small quantity", relying on the decision in ***Gaunter Edwin Kircher v. State of Goa[1].***

3. The prosecution's allegation was that 220 grams, a commercial quantity, as per the NDPS Act was recovered from the accused, though only 5 grams were sent for analysis. The cited decision was a case in which two packets of *Ganja,* one weighing 5 grams and the other 7 grams were seized and the packet weighing 5 grams alone was sent for chemical analysis. This Court held that since the contraband sent for analysis was of small quantity, the seizure of a

1 (1993) 3 SCC 145

commercial quantity has not been established beyond reasonable doubt.

4. Hereto the very same decision helped the accused. We find absolutely no reason to interfere with the impugned judgment.

5. The Special Leave Petitions stand dismissed.

6. Pending applications, if any, shall stand disposed of.

..... J.
(SUDHANSHU DHULIA)

..... J.
(K. VINOD CHANDRAN)

NEW DELHI;
MAY 07, 2025.