
DRUG POLICY OF INDIA WITH SPECIAL EMPHASIS ON NDPS ACT, 1985

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ABSTRACT

This project is basically on Drug policy and NDPS Act 1985. A Drug Policy is a policy which is adopted by government generally regarding the controlling, monitoring and regulation of psychoactive substances or hallucinogens or intoxicating substances that are otherwise addictive in nature or cause physical and psychological or mental dependency or a subsequent process of harming or deterioration of bodily homeostasis and a subsequent. It is basically a synthetic, semisynthetic or natural chemical substance. Drugs are something which can affect the way our body and mind function; they can change how we feel, think and behave. People take drugs for different reasons and in different ways which can be either beneficial or harmful. Medicines are legal drugs and doctors are allowed to prescribe them for patients, stores can sell them and people are allowed to buy them but it's not legal and permissible for people to use these medicines or to buy them from people who are selling them illegally. Drugs such as alcohol, caffeine and nicotine are legal but may be subject. Other drugs such as cannabis, amphetamines, ecstasy, cocaine and heroin are illegal drugs. To control such illegal works on drug special policy by government which is drug policy is made. Lots and lots of laws were introduced under this policy with special rules and regulations and officers. Among all the laws the most important and main law on which I have done my research on is Narcotic Drugs and Psychotropic Substances Act which is also called as the NDPS Act which was introduced in 1985. This act was made to prevent illicit drug trafficking and prohibits a person to produce, sell especially without license, cultivate, illegal transport, store without permission and consume any Narcotic drug or Psychotropic Substance or any illegal drug. This act is made mainly to prevent and protect kids or teens to consume such drugs because this can affect them badly as their body at this period is still building.

In this paper I have spoken about the enactment and enforcement of Drug policy as well as NDPS Act with government policy and its effectiveness and consequences and punishments if there is a violation in the policy. But, as we all know, that although there are so many laws made against Drugs and its illegal usage, drugs are still used in India and its illegal usage is also there.

Why? Because there are certain loopholes in the Drug policy for which still today lots of drug Mafias and many such people are involved in such illegal drug usage, its export and import and in such black-marketing business. One of the main reasons for the major gaps or inadequateness in the Indian Drug Policy is the absence of proper data. The nature and amount of the use of drugs, information on dependence and its attendant health implications which is mainly very important matter for Drug policy has been found insufficient. Also, to support my Paper I have given a case study on *Sufia Bibi, Nurjahan Bibi and Abdus Kalam Mondal Vs State of West Bengal*. And at the last I concluded the paper where I included my own personal views as well. In this paper the referred articles and documents have been referred below in “References” at page number 44 as to avoid any possible allegations of plagiarism. Hope you find this paper informative.

INTRODUCTION

A Drug Policy is a policy adopted by a government generally, regarding the controlling, monitoring and regulation of psychoactive substances or hallucinogens or intoxicating substances that are otherwise addictive in nature or cause physical and psychological / mental dependency or a subsequent process of harming or deterioration of bodily homeostasis and a subsequent. Government tries to combat drug addiction or dependence with policies that address both demand and supply of drugs as well as policies that mitigate the harms of drug use and for medical or scientific treatment.

In India Article 47 of the Indian Constitution is one of the Directive Principles which directs the state to raise the level of nutrition and the standard of living to improve public health which is a primary duty and in particular the state shall endeavour to bring about prohibition of intoxicating drinks and drugs which are harmful and injurious to health.

Therefore, being one of the signatories of the United Nation’s International Conventions, India has the onus act to remove the use illegal drugs which is to develop measures and action to prevent use of drugs and to ensure availability of treatment people who are having or suffering from drug use disorders. India has adopted the three-pronged strategies which is supply, demand and harm reduction.

Following the UN Convention on Psychotropic Substances in 1971, the Indian Government on the Ministry of Health and Family Welfare had established an Expert Committee to look into the issue of drugs alcohol use in India. In 1977 the committee report was submitted and upon

the approval from the planning commission, Drug Deaddiction Program (DDAP) was introduced in 1985-1986. Reduction of drug demand was its main motive.

At the same time India has also enacted one of the most important acts in Drug Policy for its reduction is the **Narcotic Drugs and Psychotropic Substances Act** which is also called as the **NDPS Act** which was introduced in 1985 and was amended thrice and latest in 2014. It has several medical and scientific uses but however they can be and are also abused and trafficked. Therefore, the main aim of NDPS Act was to combat drug abuse and illicit or illegal drug trafficking and reduction of its supply, manufacture and transport.

ENACTMENT AND ENFORCEMENT OF POLICY

The NDPS Act came into force on 14th November 1985, under which criminalization for illegal propagation, manufacture and consumption of Drugs is monitored. The Drug Policy of India was introduced in 17th March 1986 to further strengthen the NDPS Act and fight the violations made against it, furthered through the Prevention of 'Illicit Trafficking in Narcotic Drugs and Psychotropic Substances Act (1988).

The Narcotics control Bureau

In March 1986 the Narcotics Control Bureau was created with correspondence to the Section 4 (3) of the Narcotic Drugs and the Psychotropic Substances Act 1985 which allowed authority for taking measures with respect to matters under the act as may be specified by the government of India.

The Narcotic Control Bureau and its coordinating role has been assigned in accordance with the charter. This act was enacted by parliament in the 36th year of the republic of India. This act entails powers regarding filing, search, seizure, arrest, disposal of Narcotic Contraband matter articles and for that purpose departments of Central excise, Narcotics, customs, revenue intelligence or any other department of the central government including paramilitary or armed forces to enter search leisure arrest without warrant or authorization. The departments of State Government including revenue, drug control, excise, police are also empowered by general or special order of the government to enter into and search any place or building, seize any drug or substance, detain and search and arrest any person believes to have committed any offence

¹ <https://legislative.gov.in/sites/default/files/A1988-46.pdf>

under this act. Executive bodies are empowered to work in coordinated manner. Consumption of drugs specially those which are illegal and are harmful to health as well as any kind of illegal drug trafficking and smuggling are also illegal. Infact selling or using drugs without proper license is illegal as well but still there are people who do such crime for benefits and business therefore certain laws, enactment and enforcement were being made to reduce and stop such crime and harm. Therefore, the government and other authorities have made certain laws to control and reduce it. Consumption of Drugs is illegal and therefore the punishment will be a rigorous imprisonment for upto 6 months or 1 year and / or also a fine which depends on the substance consumed. For example, the consumption of Heroin and cocaine will lead to a lengthier sentence of imprisonment. On the other hand, Cannabis will lead to a less severe sentence. The category of “possession of small quantity intended for personal consumption” was done in 2001 and now presently the consumption of drugs in small quantity leads to uniform punishment, irrespective of intent. But sometimes in serious matters or in case of serious offenders, the restriction on grant of bail for consumption of small number of drugs were applied. Official crime statics do not reveal the actual number of drug law arrests and convictions are conducted against users a low-level offender (involving small quantity of offences). As opposed to traffickers (involving large quantity of drugs). The law itself does not distinguish between possessions for personal use and possessions for selling to others for profit. It is difficult to comment or specify whether law enforcement is aimed at the traffickers or users. Analysis can be indicated only through the amount of quantity of drugs involved which is also not distinguishable from drug crime data. Quantity is sufficient for determining the type of activity associated with the drug. In many cases involvement of the real criminals is missed and innocent are caught.

GOVERNMENTAL MEASURES AND EFFECTIVENESS

According to the government, they had set a Drug Strategy in which it will be decided that how the government and its partners at national, local and international levels will take new and strict actions / measures or steps to reduce and tackle drug misuse, its illegal trafficking and also the harms which it causes. So, the government has decided to go further and set something greater aims and help and stop people who use drugs in the first place specially those who are addicted to drugs and are facing a lot of problems, so that they could live their life freely from dependence. Therefore, it is important and necessary to reduce all illegal use of drugs which are harmful so that that the rate of individuals recovering from their dependence could increase.

Infact BJP ally Shiromani Akali Dal staged dharnas against drug menace in Punjab. Union Minister for Social Justice and Empowerment Thaawar Chand Gehlot also said that the Centre was taking effective steps / measures to control smuggling of drugs to the country. Infact the drugs which are smuggled from abroad and are being imported in India are all being dealt by the Home Minister, BSF and Narcotics Department therefore if there is any drug peddling activity then the appropriate authority or whoever is in charge of it will get to know about it.

The Government of India has also launched a national toll-free helpline that is 1-800-11-0031 to assist the alcoholic and drug dependent persons, their family members and community. Dharnas were staged by the ruling Shiromani Akali Dal (SAD) and against drug trouble in the state near the International Border and also requested for greater awareness and vigilance along the border with Pakistan. Infact, it has also been declared that the NGOs which receive funds from the center, are not performing in this matter, will not get any funds from the government. According to Social Justice Secretary Sudhir Bhargava a pilot survey regarding drug issues is being carried out in Punjab and Manipur. Therefore, Certain Measures were introduced to prevent illegal import, export, manufacture, trafficking, distribution of Drugs.

Compliance of Article 12 of UN Convention 1988 Section 9A of ²The NDPS Act ensures the power to control and regulate chemical substances. Violations of any provisions entitles punishment of up to 10 years and fine. Under the NDPS Act, “Regulation of Controlled Substances Order” was enforced in 1993 to check the spread of ‘controlled’ substances.

- Central Bureau of Narcotics (located at Gwalior) is the authority responsible for regulation of Import or Export of certain ‘notified’ drugs.
- Distribution of restricted or controlled substances are checked by the implementation of the ‘PEN Regime’.

Any violations of orders regulating controlled substances (precursors) is ³an offence under the NDPS Act and is punishable with imprisonment of up to 10 years. Intentional distribution of any substance (whether it is a controlled substance or notified) for illegal manufacture of narcotic ⁴drugs and psychotropic substance is punishable under the NDPS Act.

² https://www.unodc.org/pdf/india/publications/ungass_Goals/18_annexureiv-countryreport-india.pdf

³ https://www.unodc.org/pdf/india/publications/ungass_Goals/18_annexureiv-countryreport-india.pdf

⁴ https://www.unodc.org/pdf/india/publications/ungass_Goals/18_annexureiv-countryreport-india.pdf

Various codes of conduct ⁵have been developed by associations and committees of manufacturers pseudoephedrine, acetic anhydride, ephedrine. One of the common methods of illegal distribution or smuggling of Acetic Anhydrides was by drivers of tankers carrying the chemical who would steal or pilferage from it.

Some of the methods developed by manufacturers to stop such illegal activities and other methods of “diversion” are as follows:

- i) Introduction of specially made fabricated sealing systems of containers items which provide extra protection make it near impossible to tamper with the inlets and outlets of the tankers.
- ii) Special identity cards and liability assurance policy for drivers using the tankers

According to Indian Law, the seller has to know the identity of the Buyer before initiating a buying-selling process involving controlled substances (precursors).

A non-scheduled precursor, namely ⁶Acetyl Chloride has been found to be used as a substitute for Acetic Anhydride for manufacture of methaqualone. Similar examples have been also recorded before where substituting agents can produce the same substance. Therefore, contemplation over such substances is done regularly, with close monitoring of their use.

Statistical Updates and newer ⁷formats of legislations are constantly notified to the INCB which in return ensures the working of its bodies with reference to the updated versions of the aforementioned verse.

The Government of India has previously ⁸shared many details with international authorities and governments of other countries regarding control and monitoring of illegal drugs. Previously India has shared the details of Tableting Machines exported to, Malaysia, USA, Germany and authorities of such importing countries. Details of Norephedrine exported from India to Philippines (importing Nation) act as a preventive check.

⁵ https://www.unodc.org/pdf/india/publications/ungass_Goals/18_annexureiv-countryreport-india.pdf

⁶ https://www.unodc.org/pdf/india/publications/ungass_Goals/18_annexureiv-countryreport-india.pdf

⁷ https://www.unodc.org/pdf/india/publications/ungass_Goals/18_annexureiv-countryreport-india.pdf

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In the Indian state of Punjab, dependence on Drug use is very high, it is suggested by the media that nearly 75% of the youth of the state is affected by the Drug use. During the national elections in 2014, this issue took a huge political mention and the state of Punjab began a clamp down on people using drugs with mass arrests, seizures and interdictions under the NDPS Act. More than 14,560 people were arrested under the act in less than 8 months. The state also launched 'Special drives' against people using drugs and they were forced to take admission to rehabilitation centers. The authorities have announced plans to expand treatment policy alternatives which approach Drug use as a health rather than a criminal issue were not considered. The ⁹doctors who prescribe and dispense OST in private clinics have been threatened with legal sanctions. The incongruous nature of Drug policy is thus demonstrated while the law welcome harm reduction, Drug enforcement agencies continue to abandon it.

LOOPHOLES IN THE DRUG POLICY OF INDIA

One of the main reasons for the major gaps or inadequateness in the Indian Drug Policy is the absence of proper data. The nature and amount of the use of drugs, information on dependence and its attendant health implications which is mainly very important matter for Drug policy has been found insufficient. The first and only survey which is giving information on the extent and increase on Drug use was done more than a decade ago that is in 2001-2002. The information on drug use which was collected from Survey was that there were an estimated 8.7 million Cannabis users of which 2.3 million were dependent (26%). Infact on the other hand the number of Opiate users was estimated to 2 million of which 0.2 million (22%) were thought to be dependent.

There was an existence of a Drug Abuse Monitoring System (DAMS) for collecting the data from patients who were seeking treatment for drug dependence at NGOs or any other government centres, but unfortunately the system did not work well. Infact the Central Government has also announced for another nation-wide survey and its intentions behind it but still there were no updates on this matter. Therefore, due to these kinds of lack of data and information, there is a persistence and rising number of illicit activities being carried out by the Drug Mafia of India. Lack of drug law enforcement creates and its corresponding enforcement

⁹ <https://www.scribd.com/document/290033717/Idpc-Briefing-Paper-Drug-Policy-in-India>

agency the Narcotics Control Bureau persistently lacks insufficiency of drug law enactment and control.

As we all know that drug policy administration is not only divided between Central and State Government but also it is divided between the ministries and department in the same level. But the carrying out of Drug Policy has sometimes seemed to be a confusing overlap and also sometimes abandonment of responsibility.

For example: The poor coordination and accountability of their work was apparent in the case which was concerning human rights abuses against people who use drugs in treatment centres where it was seen that neither the Ministry of Health nor the Ministry of Social Justice and Empowerment, took responsibility for private, unfunded centres as they ostensibly do not have rule making powers under the NDPS Act.¹⁰In addition, the Ministry of Finance said that while it is in charge of making NDPS rules, it was not responsible for treatment and therefore could not make rules on the subject.

ENDEAVOURS UNDER TAKEN BY THE GOVERNMENT

In the recent years to come, the Indian government has decided to take up the following steps:

- The Survey on the National Mental Health (2015-2016) divulged treatment gap of nearly 70% of drug use disorders. The recent nationwide survey replicates this on substance use disorders with nearly 75%gap in treatment of drug use disorders. The large treatment gap is the indication of poor quality of health care with poor utilization of accessibility. Hence the need to expand the treatment and rehabilitation facilities for substance disorders. The scheme of DTC by the Ministry of Health and Family Welfare (MHFW) is not enough.
- The present scheme is implemented by NDDTC, AIIMS. Since, Drug demand reduction directly falls under the purview of both the ministries of both Health and social Justice, A concerted and coordinated effort is a must to fill the treatment gap with a minimum standard of care. It is also necessary to conduct on regular intervals on nationwide drug surveys to discover the under currents of substance use in India.

¹⁰ <https://books.google.com/books?id=xnKBDwAAQBAJ>

- The NDPC policy prohibits the NSEP, where as it is one of the corner stones in Harm reduction which is Practiced by the NACO. Despite the progress made by the NACO and the GO-NGO model, the coverage of the OST among IDUs is 7% and so it calls the scaling up of the OST effectively and safely. The NDPS Policy advocates a time limited OST which does not have a scientific evidence base and may cause more harm hence these discrepancies in the policies must be faced.
- It is important to detect early and schedule the new psychoactive substances – a current and future challenges. The International Narcotic Control Board (INCB) has revealed India's threat to mephedrone and captagon. The rapid proliferation of internet-based pharmacies and the bit coin based transactions or other crypto currency based transactions for the illicit drug use in India is on a rise.
- We can thus summarize and say that India has taken many decisive steps to address the drug problems in India. It cannot be denied that the government has an over encompassing blue print, work force, dedicated programmes and policies but there is an urgent need to have a coordinated effort between ministries to bring about unity at the policy level and to strengthen the supply reduction chains and be scientifically informed.

THE NARCOTIC DRUG AND PSYCHOTROPIC SUBSTANCES (NDPS) ACT 1985

The Narcotic Drugs and Psychotropic Substances Act 1985 which is commonly known as the NDPS Act is an act enshrined in Article 47 of the Indian Constitution. This act was made to prevent illicit drug trafficking and prohibits a person to produce, sell especially without license, cultivate, illegal transport, store without permission and consume any Narcotic drug or Psychotropic Substance or any illegal drug. This act is made mainly to prevent and protect kids or teens to consume such drugs because this can affect them badly as their body at this period is still building. India is also party to three of United Nations conventions on drug policy formulation and control-the 1961 Single Convention on Narcotic Drugs (1961 Convention), Convention on Psychotropic Substances (1971) ¹¹and the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988 Convention).

This act was introduced in the Lok Sabha on 23rd August 1985 by both the Houses of the Parliament. On 16th October 1985 it had received assent from the then president Giani Zail

¹¹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5473056>

Singh and it came into force 14th November 1985. India's commitment to prevention of drug abuse and drug trafficking helps the three conventions to come into force which were introduced in UN that is 1961, 1971 and 1988 conventions which India signed and ratified.

Under the influence of this act the governments' policy was thus to prevent the illicit use of such drugs in trafficking and abuse but at the same time promoting its use for medical and scientific purpose or for any valid purpose.

For Example: We all know that cocaine is a well-known stimulant or psychotropic drug which is also illegal but studies and research shows that this drug has long been used as topical anesthetic in the Andean tribal communities of South America. The irritable bowels disease and other intestinal diseases find their cure or treatment by Cocaine. The most famous part of cocaine is that it has the ability to remove headaches; infact it was before originally used as an active ingredient in the beverage Coca-Cola but stopped when it became illegal.

Similarly, it goes for such drug known as Heroin. We all know that Heroin is an illegal drug but a study at Hannover Medical School found opiate addicts. It has been seen that usually people who were addicted to painkillers like Vicodin, Percocet, Oxycontin or Demerol, were able to better kick their opiate addiction after taking small dosages of Heroin. Heroin is also commonly used in hospitalized pain management particularly in palliative care.

Analyzing all the above example we can say that, a certain drug or substance or compound which has been rendered illegal or otherwise deemed unlawful has been found to be of medicinal value or health wise beneficial after furtherance of research on the drug where in the particular drug in this hypothesis ; so deemed unlawful or illegal upon addition or change in composition with different substrates or different chemical compounds thereby creating a new derivative compound from the same illegal compound and substance and hence proved to be of medicinal value can therefore conclude to the reference of an illegal drug upon research in the phase of a crises or diseases (to create a vaccine) or otherwise for other medicinal purposes could mean that a drug or a substance deemed unlawful may have good medicinal purposes which may be unknown to us, yet.

THE ENACTMENT AND ENFORCEMENT OF NDPS ACT

In the Indian scenario use of Cannabis has been documented since the Vedic Era. Atharva Veda

documents the use of Cannabis in large sections of society and among the Aristocrats. The Indian mythology also depicts many gods and goddess using drugs and other substances, with Lord Shiva extensive use of weed. In India legalisation of Cannabis and its derivatives (bhang, charas and ganja) was widely practised and was used for recreational purposes.

Subsequently on 14th November 1985 NDPS Act was enacted banning all the Narcotic Drugs for commercial or public use. However, the only exception for provision for non-medicinal use was that drinks made from Cannabis leaves were to be sanctioned in 1989, therefore NDPS Act 1985 allows cultivation, manufacture, possession and sell, transport, etc of the drugs and substances barring medicinal and scientific purposes (Act 11).

Cannabis, Coca, Opium or any other Narcotics substances are covered under this act. Main aims for enforcing this law are to keep a check on quality of drugs control the manufacturing and distribution of drugs, display of drugs ingredients or composition and to prevent substance abuse in society. One of the major drawbacks is that the act presumes the guilt of the accused brings complete responsibility of proving an individual's innocence on him cannot be given to accused for offences which fall under sections 19, 24 or 27 A of NDPS Act and commercial quantities of drugs (Section 12).

Indian Judicial System considers each person plaintiff or defendant till proven otherwise. There is no difference between hard drug and soft drug. For Example: In natural form Heroin is harder than Opium. Heroin can easily be delivered illegally as a very little amount is required for the 'high' to come as compared to the natural form of Opium. In Section 54 of NDPS Act it is stated that unless proven otherwise a person having illegal drug is consider guilty.

According to amendment in 1989 section 31 A mentions death penalty for repeated offences if the quantity of drugs seized or taken or confiscated is of large amount or of certain pre-defined limits. Apart from the sections defined which may require adaptation to newer forms of illegal drug peddling it is a necessity that the act be reviewed time to time since newer drugs and their derivatives may be made from time to time.

Policies by the government has been used to promote for medical and scientific purposes while preventing illegal sources and prohibiting traffic and abuse. The NDPS Act has given the power

to various central and state law agency, spreading the influence of law enforcement. ¹²The NDPS Act also enables the Centre and State Government to notify any new division or department to enforce the law. The following are elaborations regarding the same: -

- ❖ Section 9 ¹³of the NDPS Act has listed various activities which the Centre can regulate while Section 10 lists activities which the State Government can regulate. Thus, rules and regulations of the Centre and the States can be framed by each State Government under the act. The rules enforced by the Centre and States for their respective origins.
- ❖ NDPS Act has established statutory authorities such as the Narcotics Commissioner (Section 5), the competent authority (Section 68D) and the administrator (Section 68 G). The department headed by the Narcotics Commissioner is known as the Central Bureau of Narcotics (CBN). Narcotics Control Bureau was created under Section 4 of the NDPS Act.
- ❖ The NDPS Act is administered by the ministry of finance, department of revenue. Ministry of Social Justice and Empowerment (MSJE) deals with matters regarding drug demand reduction. MSJE supports all NGO organizations involved in drug demand reduction. Drug de-addiction enters in the government hospitals in the country are run by ministry of health, government of India. ¹⁴The Narcotic Control Bureau under the direction of Ministry of Home Affairs looks over and coordinates actions by various functioning unit (Centre and State) under the NDPS Act.
- ❖ Various activities relating to drug demand reduction are over seen by the State Governments' own departments of health and medical welfare and social welfare departments.

Chart for Substance / Drug Abuse and their corresponding Punishment according to NDPS Act 1985

Drugs/ Substances	Large quantity	Punishments	Small quantity	Punishments

¹² <http://cbn.nic.in/html/NationalPolicyEnglish.pdf>

¹³ <http://cbn.nic.in/html/NationalPolicyEnglish.pdf>

¹⁴ <http://cbn.nic.in/html/NationalPolicyEnglish.pdf>

Cocaine	100gms	10 Years to 20 Years of rigorous imprisonment and fine amounting between Rs 1 Lakh to Rs 2Lakh	2mg	6 Years of Imprisonment or fine upto Rs 10,000 or both
Opium	2.5Kg	10 Years to 20 Years of rigorous imprisonment and fine amounting between Rs 1 Lakh to Rs 2Lakh	25mgs	6 Years of Imprisonment or fine upto Rs 10,000 or both
Ganja	20Kgs	10 Years to 20 Years of rigorous imprisonment and fine amounting between Rs 1 Lakh to Rs 2Lakh	1000mgs	6 Years of Imprisonment or fine upto Rs 10,000 or both
Heroin	250gms	10 Years to 20 Years of rigorous imprisonment and fine amounting	5gms	6 Years of Imprisonment or fine upto Rs 10,000 or both

		between Rs 1 Lakh to Rs 2Lakh		
LSD	0.1gms	10 Years to 20 Years of rigorous imprisonment and fine amounting between Rs 1 Lakh to Rs 2Lakh	0.002gms	6 Years of Imprisonment or fine upto Rs 10,000 or both
Coca Leaf	2kg	10 Years to 20 Years of rigorous imprisonment and fine amounting between Rs 1 Lakh to Rs 2Lakh	100gms	6 Years of Imprisonment or fine upto Rs 10,000 or both
Morphine	250gms	10 Years to 20 Years of rigorous imprisonment and fine amounting between Rs 1 Lakh to Rs 2Lakh	5gms	6 Years of Imprisonment or fine upto Rs 10,000 or both
Methadone	50gms	10 Years to 20 Years of rigorous imprisonment and fine	2mgs	6 Years of Imprisonment or fine upto Rs 10,000 or both

		amounting between Rs 1 Lakh to Rs 2Lakh		
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CASE STUDY

A crime registered under the Special Court (NDPS Act) dated 14/2/2018 arise in out of Domkal PS Case number 99. The two parties are namely the state of West Bengal VS Sufia Bibi, Nurjahan Bibi, Abdus Kalam Mondal (accused persons). NDPS Case number 60 of 2018. `

OFFENCES COMMITTED

Offences punishable under Section 21 C/29 of NDPS Act 1985. The argument heard was on 25th February 2020 and the date of delivery of judgement was on 3rd March 2020.

CASE

Three Persons namely the accused Sufia Bibi, Nurjahan Bibi and Abdus Kalam Mondal were charged with hatching out Conspiracy and with transportation of 2Kgs of Heroin for commercial sale and also with abetment with such transportation. Prosecution Case was that ,Police Sub-Inspector registered a written Complaint ,citing these three persons has been accused of transporting narcotic contraband namely Heroin in Clandestine Manner .Police reduced the information into writing in the General Diary book and set out of the Police Station for the purpose of raid .The Movement of those three accused persons was intercepted by police .Personal search was conducted and 2Kgs of Heroin was Recovered from the conscious and exclusive possession of the accused who used two motorcycles for their safe passage for the commission of an offense under the NDPS Act. The recovered contraband was weighed and was found 2Kg. With the help of drug detection kit.

The Purple coloured powder was tested and it was detected that it was heroin. The Heroin was seized under seizure list. Signatures of the seizing officer of the accused persons two independent witnesses before whom the search recovery and seizure were held, were taken down on the seizure list. The accused persons were then informed of the ground of their arrest, by the arresting officers. Then the police raid team returned to police station. 2 samples contain 10gms of Heroin so separated and packed were sent to State Forensic Science laboratory,

Kolkata, were sent for ascertainment and opinion of the forensic expert. The residual part of the heroin, the bulk, was kept in the police station Malkhana, as 'Alamat' of the case the case. Following registration of FIR, investigation began, on completion of investigation charge sheet was submitted under sections 21(c)/29 of the NDPS Act against the accused. They were given free copies of the prosecution papers for the sake of their contest in the case. Charge was framed and accused persons pleaded not guilty. Hence, the trial.

Prosecution examined as many as 8 witnesses in order to prove its case. The Complainant, a police officer, stated that following a secret information about the offense of transportation of heroin inter-district by racket for the purpose of peddling was busted by police the three accused people were stopped at a public place. They were offered their legal right to choice of presence of Gazetted officer during their search. The gazetted officer was informed by the complainant by a notice. So was informed the two public witnesses. In presence of the gazetted officer and two witnesses the entire process of search, seizure recovery was held. Documents were marked exhibits. The rest 7 witnesses were also examined and their evidence was hazy, nebulous and not convincing. Also, the 8 witnesses were cross-examined in succession. The documentary evidence, alams of the case support do not support the oral evidence of the witnesses. The time of occurrence was not correctly stated by any of the witnesses, some of the witnesses failed to identify the accused persons. The alamat, i.e., Heroin was kept inside a punctured packet and it was not correctly marked with distinct numbers. The prosecution case became doubtful and lost its veracity the accused persons merit in acquittal, the heroin was confiscated but the state and was destroyed immediately. The seized motorcycles were also confiscated to the states. This concluded the case.

CONCLUSION OF THE PAPER

Effective implementation of Drug Policy and most importantly NDPS Act for regulating the drugs and its uses should be kept under view. It is very important to ensure the quality of Drugs which should be used for medical or scientific uses / purposes so that it could be taken into consideration. Data of Drug addicts should be well maintained and regulated incorporating various organizations working in the area. Incorporating various organization working in this area. It is very important for the states to improvise and coordinate among each other to investigate the cases which are related to drugs. This will help them to investigate cases properly plus it will help them to solve matters on clear lines of investigation for example doing

differentiation between synthetic drugs and natural drugs. Infact transparency of the policy can be a great advent for effectively solving crimes related to drugs. One more thing which is very important to eliminate / remove or reduce the illegal drugs from our country is to understand the drug patterns. Apart from all these proper education, knowledge, reports and awareness are very much required which will help to reduce the problem of drug addiction in our country. Rehabilitation Centers and all the other authorities who are in charge of Drug matters should work properly and coordinate with the Central and State Governments to prevent / reduce Drug Abuse, its illegal trafficking, smuggling and its practice to make India a better and drug free country and also to protect the coming generations from its harmful effects.

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