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# A STUDY ON PROCEDURAL SAFEGUARDS AND JUDICIAL ACQUITTALS UNDER NDPS ACT, 1985

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## ABSTRACT

The Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, serves as India's primary legislative framework against drug trafficking. To balance its stringent punitive provisions, severe minimum sentences, and statutory reverse burden of proof, the legislature embedded mandatory procedural safeguards within the Act. This study analyzes the critical intersection between law enforcement compliance and judicial outcomes, evaluating how procedural lapses systematically lead to trial failures and judicial acquittals. Through a doctrinal analysis of landmark and contemporary Supreme Court and High Court rulings, this paper examines the evolution of key statutory safeguards. The findings indicate that a significant majority of NDPS acquittals stem not from a lack of factual guilt, but from mechanical errors, compromised chains of custody, and arbitrary deviations by investigating officers. The study concludes that while strict judicial enforcement protects the fundamental Right to Life under Article 21 against state overreach, it exposes a critical capability gap in law enforcement. Finally, the paper proposes institutional reforms, including standardized digital compliance logging and mandatory specialized procedural training for officers, to bridge this systemic gap.

**Keywords:** NDPS Act, Procedural Safeguards, Section 42, Section 50, Section 52A, Section 55, Section 57, Judicial Acquittals.

## 1. INTRODUCTION

The Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, is a corner stone of India's criminal justice system, designed to control and regulate operations relating to narcotic drugs and psychotropic substances. Given the escalating global threat of drug trafficking, the Indian Legislature armed law enforcement with exceptionally stringent powers through this Act. The statute introduces severe penalties, including lengthy rigorous imprisonment, massive financial fines, and, in rare instances, capital punishment. Drafted to fulfill international treaty obligations, the statute serves a dual societal function: curbing the global menace of drug trafficking while systematically rehabilitating substance victims. However, to effectively dismantle organized drug cartels, the legislature armed enforcement agencies with exceptionally draconian powers. Furthermore, the Act reverses the traditional burden of proof under Sections 35 and Section 54, placing a statutory presumption of a culpable mental state and conscious possession on the accused.

The NDPS Act 1985 serves as India's primary legislative weapon against drug abuse and trafficking. Because the statute imposes stringent penalties, strict bail conditions under Section 37, and a reverse burden of proof, the legislature built in mandatory procedural safeguards to prevent administrative overreach. The NDPS Act is structurally distinct due to its aggressive penal landscape, which includes severe minimum prison sentences, heavy financial penalties, and strict restrictions on bail under Section 37. Most notably, Sections 35 and 54 introduce a reverse burden of proof, legally presuming the culpable mental state and possession against the accused until proven otherwise. This statutory departure from the foundational criminal law principle of "innocent until proven guilty" tilts the scales of justice heavily in favour of the state, these provisions flip the scale. They create an environment where the accused faces an uphill legal battle from the very inception of the case.

Because the statutory provisions carry such severe consequences, the legislature and the judiciary have established mandatory procedural safeguards to protect individual liberty. These legislative check-and-balance mechanisms act as essential constitutional shields against administrative high-handedness, malicious prosecution, and investigative fabrication. Key statutory safeguards include the following mechanisms—such as mandatory recording of information (Section 42), right to a searched presence before a Magistrate (Section 50), and overseen sampling protocols (Section 52 A) seems to act as constitutional balancing shields.

Over decades of legal evolution, the Supreme Court of India has consistently ruled that these procedural protocols are not mere administrative formalities. Instead, they are mandatory, non-negotiable statutory commands.

When investigative agencies fail to strictly follow these procedural rules, the legal outcome is a judicial acquittal. Indian jurisprudence firmly establishes that the harsher a criminal law is, the more strictly enforcement officers must follow its procedural rules. Any substantial deviation from these statutory duties compromises the integrity of the collected evidence, completely breaking the prosecution's chain of custody. For example, failing to inform a suspect of their right under Section 50 or failing to involve a magistrate during sampling under Section 52A invalidates the seizure itself. When this happens, courts cannot rely on the contaminated evidence and must acquit the accused. Ultimately, judicial acquittals under the NDPS Act serve an important constitutional purpose: they remind enforcement agencies that state security can never be achieved by bypassing due process, ensuring the right to a fair trial remains well-protected. The article explores the challenges posed in securing the right of the accused through the procedural safeguards provided in the statute.

## **2. Balancing State Power and Individual Liberty**

Because the NDPS Act curtails ordinary constitutional privileges and shifts the burden of proof, the potential for its misuse, malicious prosecution, or investigative overreach is exceptionally high. To prevent the law from becoming an instrument of oppression, the Legislature embedded strict, mandatory procedural safeguards within the text of the Act. These statutory protections are primarily found in Sections 42, 50, 52A, and 57, serve as constitutional counterweights.

They ensure that the draconian powers granted to state agencies do not trample upon the fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India. The procedural safeguards are not mere technicalities or administrative formalities; they are the essential conditions under which the state is permitted to deploy its harshest penal powers against a citizen.

## **3. Judicial Interpretation and Mandate**

The Supreme Court of India has consistently maintained a strict approach regarding compliance with these safeguards. In landmark rulings such as *Baldev Singh (1999)*<sup>1</sup>, Mohan

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<sup>1</sup> *State of Punjab v. Baldev Singh (1999) 6 SCC 172*

Lal (2018)<sup>2</sup> and Mukesh Singh v. State (Narcotics Branch of Delhi) (2020)<sup>3</sup>. the Apex Court established that the harsher the penalties under a statute, the stricter the adherence to its procedural requirements must be. Indian jurisprudence dictates that because the Act strips away ordinary legal cushions, law enforcement must follow every statutory safeguard to the absolute letter of the law.

Any substantial deviation, delay, or negligence during the process of information recording, physical search, evidence sampling, or superior reporting does not merely weaken the case; it fundamentally vitiates the investigation. Consequently, a breach of these mandatory provisions renders the recovery of contraband illegal, breaking the chain of evidence and routinely entitling the accused to an acquittal. Ultimately, the procedural safeguards under the NDPS Act represent a vital democratic compromise. They recognize the state's legitimate need to combat drug syndicates with an iron fist, while simultaneously protecting innocent citizens from arbitrary arrest and fabricated charges through mandatory, transparent, and legally enforceable checks and balances. The Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, carries exceptionally severe penalties, which makes strict adherence to procedural safeguards mandatory to prevent arbitrary law enforcement and protect individual rights. The Supreme Court of India consistently rules that non-compliance with these statutory safeguards can weaken the prosecution's case or lead directly to the acquittal of the accused.

The Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) is one of India's most stringent criminal legislations, featuring severe mandatory punishments, a reverse burden of proof, and restricted bail provisions under Section 37. Because the law is heavily weighted against the accused, the Supreme Court of India mandates that statutory procedural safeguards must be followed to the letter. Any deliberate violation or failure to comply with these mandatory mechanisms routinely leads to judicial acquittals, as a safeguard against malicious prosecution and the planting of evidence. Indian courts strictly mandates the law enforcement agencies to adhere the statutory safeguards. Recent Supreme Court judgments heavily reinforce this principle, establishing clear boundaries between fatal investigative flaws which mandate immediate acquittal and curable administrative errors.

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<sup>2</sup> Mohan Lal v. State of Punjab (2018) 17 SCC 627

<sup>3</sup> Mukesh Singh v. State (Narcotics Branch of Delhi) (2020) 10 SCC 120

#### **4. Core Structural Themes Covered in the NDPS Act 1985**

- **Statutory Rigor:** Strict penal provisions and heavy restrictions on regular bail applications.
- **Presumption Shift:** Statutory placement of the legal burden of proof onto the accused.
- **Mandatory Safeguards:** Statutory duties regarding search, seizure, and information recording.
- **Magisterial Oversight:** Compulsory judicial supervision during sample collection and inventory creation.
- **Judicial Accountability:** Strict enforcement of procedural rules to prevent administrative overreach.
- **Due Process Shield:** Automatic invalidation of tainted evidence to secure a fair trial.

#### **5. Mechanics of Judicial Acquittal**

- **Evidentiary Exclusion:** Violations of personal search criteria render the seized contraband legally inadmissible.
- **Primary Evidence Defect:** Skipping magistrate-led inventory processing removes the primary legal status of the laboratory samples.
- **Reasonable Doubt:** Gaps in sample seal chains or a total lack of independent witnesses tilt cases toward the accused.

#### **6. Core Areas of Procedural Compliance**

The primary procedural safeguards and their corresponding sections under the NDPS Act are detailed below.

- **Section 42:** Entry, search, seizure, and arrest without warrant and mandatory written recording and 72-hour superior notification.
- **Section 50:** Conditions under which physical, personal searches of a suspect must be

conducted. Assures an individual's legal option to be searched exclusively before a Gazetted Officer or a Magistrate.

- **Section 52A:** Mandatory protocol for disposal, physical inventory certification, and drawing samples before a Magistrate. Dictates that representative sample extraction must occur directly under a Magistrate's supervision.
- **Section 55:** Secure custody, sealing, and safe preservation of seized contraband by the officer-in-charge.
- **Section 57:** Mandatory requirement to report the full details of any arrest or seizure to a superior officer within 48 hours.

## 7. Core Procedural Safeguards and Causes for Judicial Acquittal

The critical provisions under Chapter V of the NDPS Act 1985 serve as vital checks and balances against the abuse of power by enforcement authorities:

### **Section 42: Power of Entry, Search, Seizure, and Arrest Without Warrant**

The Section 42 involving search of private premises on prior information creates mandatory with a strict timeline. As per the Section 42(1) recording and Section 42(2) reporting is mandatory. If an officer receives a tip-off about drugs hidden inside a building or private vehicle, they *must* write it down immediately. They *must* send a copy to their official superior within 72 hours. This rule prevents police officers from fabricating tips after a raid takes place. Total failure to record the information or completely failing to notify the superior officer constitutes a structural flaw that results in an acquittal. However, a minor delay (e.g., sending the report at 75 hours instead of 72 hours due to an emergency) can occasionally be looked at as a curable error if the prosecution explains the delay logically. Therefore strict adherence to Section 42 is mandatory; non-compliance creates major doubt, and the entire case can collapse, ensuring acquittal.

The Delhi High Court in Yusuf Aajam (2026) case,<sup>4</sup> ruled that Section 42 compliance cannot be completed via hearsay or substituted officers. The statutory communication sent upward to

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<sup>4</sup> Yusuf Aajam v. State Govt. of NCT of Delhi (2026) DHC 4966

a superior officer must emanate directly from the same officer who first received and recorded the secret info. A gap or delegation in this initial chain of recording cannot be bypassed. The case *Jagraj Singh @ Hansa (2016)*<sup>5</sup> clarified the strictly bounded distinction between Section 42 (private/enclosed spaces) and Section 43 (public spaces/conveyance in transit). The Supreme Court held that if a vehicle is stopped on a public road, Section 43 applies, meaning a prior warrant or recorded reasons are not strictly needed. However, if a vehicle is parked or seized within a private yard or private enclosed area, the rigorous requirements of Section 42 apply implicitly, and failing to record secret information in writing will vitiate the trial.

In *Boota Singh & Others (2021)*<sup>6</sup> the Supreme Court extended the *Jagraj Singh* doctrine, holding that a private vehicle found parked on a public path/road does not automatically make it a public conveyance under Section 43. Total compliance with Section 42 remains mandatory if the vehicle itself is a privately owned entity being used as an enclosed storage space for contraband. While the *Karnail Singh (2009)*<sup>7</sup> a 5-judge Constitution Bench settled the standard for "substantial compliance" under Section 42(2). Total failure to write down information and forward it within 72 hours to official superiors is fatal to the prosecution's case. However, if an officer acts immediately due to extreme urgency to prevent an offender from escaping or concealing evidence, belated writing and subsequent reporting to a superior officer can be treated as acceptable delayed compliance, provided the delay is contextually justified.

### **Section 50: Conditions Under Which Search of Persons Shall Be Conducted**

This section is the most litigated and vital constitutional firewall in NDPS trials. Before executing a personal search, the officer must explicitly inform the suspect of their statutory right to be searched in front of a Gazetted Officer or a Magistrate. The communication of this right is non-negotiable. If an officer performs a bodily search without giving this option, the recovery is deemed illegal. Any presumption of guilt under Section 54 cannot be sustained, resulting in immediate judicial acquittal, regardless of the quantity of contraband seized. This safeguard applies strictly to a search conducted on the physical body of a person, not to search extensions like bags, vehicles, or premises.

This is the most highly litigated and critical personal safeguard under the Act, as Section 50

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<sup>5</sup> *State of Rajasthan v. Jagraj Singh @ Hansa (2016)* 11 SCC 687

<sup>6</sup> *Boota Singh & Others v. State of Haryana AIR 2021 SC 1913*

<sup>7</sup> *Karnail Singh v. State of Haryana (2009)* 8 SCC 539

protects individuals from arbitrary bodily searches. Before a personal body search, the officer must inform the suspect of their right to be searched in the presence of a Gazetted Officer or a Magistrate. This requirement is strictly mandatory for the physical search of a person. It does not apply to the search of a vehicle, bag, container, or premises. Failing to properly inform the accused of this statutory right renders the recovery of contraband illegal, which routinely leads to acquittal.

The Supreme Court reaffirmed in *State by CBI v Dilbagh Singh (2013)*<sup>8</sup> and *Najmunisha v. State (2024)*<sup>9</sup> that the absolute requirement to inform a suspect of their right to be searched before a Gazetted Officer or Magistrate is strictly personal. If narcotics are discovered inside a vehicle, bag, or container being carried by the person (rather than hidden on their physical body), the strict statutory protections of Section 50 do not apply. However, if a combined physical search of the person and their bag is conducted without giving the Section 50 option, any physical recovery becomes tainted.

### **Evidentiary Standby and Hostile Witnesses**

In *Sahil Sharma alias Maxx v. State Govt of NCT of Delhi (2025)*<sup>10</sup> the Higher courts were found to be increasingly rejecting prosecutions that rely entirely on the uncorroborated testimonies of police officers when independent local witnesses are readily available but ignored. The non-joinder of public witnesses during a raid, coupled with structural contradictions in sample weights or seal identifications, serves as a primary ground for establishing reasonable doubt, leading to acquittals or long-term bail.

### **The Flaw of "Third Options" and Impermissible Choices under Section 50**

When a personal bodily search is conducted, the officer must inform the suspect *only* of their statutory right to be searched before a Magistrate or a Gazetted Officer.

The Supreme Court in *Surat Singh (2026)* case upheld the acquittal of an accused allegedly caught with Charas because the investigating officer offered a legally impermissible "third option". The police asked the suspect if he wanted to be searched by a Magistrate, a Gazetted Officer, or by the raiding police officer himself. Section 50 does not permit the police to pitch

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<sup>8</sup> *State by CBI v. Dilbagh Singh (2003) 11 SCC 344*

<sup>9</sup> *Najmunisha v. State of Gujarat (2024) SCC OnLine SC 520*

<sup>10</sup> *Sahil Sharma alias Maxx v. State Govt of NCT of Delhi (2025) SCC OnLine Del 8735*

themselves as an alternative neutral authority. Giving an option to be searched by the police officer completely compromises the statutory protection and automatically vitiates the trial, making acquittal the mandatory outcome.<sup>11</sup>

State of Rajasthan v. Parmanand & Anr. (2014)<sup>12</sup> case, reinforced the concept of relevant notice in recent joint searches. When multiple accused individuals are arrested together, the police cannot give a joint or collective notice under Section 50. Each individual must be given an independent, clear, and individual communication of their right. Bundling notices or obtaining a collective signature on a single form constitutes non-compliance, rendering the search illegal and ensuring a judicial acquittal.

The Section 50 is of mandatory personal warnings were the police cannot offer conditional choices or personal alternatives when informing an accused of their right to an independent search. The case State of Himachal Pradesh v. Surat Singh (2026) reaffirmed the Constitution Bench standard in Vijaysinh Chandubha Jadeja v. State of Gujarat, (2011) 1 SCC 609.<sup>13</sup> It stated that during a transit raid, a police officer gave the suspect a written notice asking if he wished to be searched by a Magistrate, a Gazetted Officer, or by the raiding police officer himself. The Supreme Court affirmed the trial court's acquittal, ruling that introducing a "third option" (the police officer) vitiates the mandatory communication required under Section 50. The officer must explicitly inform the suspect that they have an absolute right to be searched only before a Magistrate or Gazetted Officer. Presenting the police as a valid alternative creates an illusory choice, which invalidates the search and requires an acquittal.

The nature of the Section 50 is strictly mandatory, when a law enforcement officer conducts a search of a person's physical body the compliance with Section 50 is non-negotiable. The Supreme Court holds that because the NDPS Act carries severe mandatory minimum sentences, the statutory protection against arbitrary bodily intrusion must be strictly observed. Automatic acquittal. Even if a massive quantity of a banned drug is found in the suspect's pocket, the recovery becomes completely inadmissible as evidence if they were not explicitly informed of their right to be searched before a Magistrate or Gazetted Officer.

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<sup>11</sup> State of Himachal Pradesh v. Surat Singh (2026 INSC 240)

<sup>12</sup> State of Rajasthan v. Parmanand & Anr. (2014) 5 SCC 345

<sup>13</sup> Vijaysinh Chandubha Jadeja v. State of Gujarat, (2011) 1 SCC 609)

### **Section 52A: Disposal and Sampling of Seized Contraband**

This section outlines the strict protocol for certifying and sampling seized items to maintain an untampered chain of custody. The acting officer must prepare a detailed inventory of the drugs and present them before a Magistrate to verify correctness, take representative samples, and certify the photographs. Samples drawn at the time of seizure by the police without the presence or certification of a Magistrate lack primary evidentiary value. Higher courts frequently overturn convictions because failing to process samples under Section 52A breaks the verifiable chain of custody, creating an assumption of potential tampering.

### **Section 52A: Magistrate Presence is Non-Negotiable for Sampling**

The prosecution cannot rely on chemical test results if the samples were drawn by the police without judicial supervision. In *Yusuf @ Asif v. State (2023)*<sup>14</sup> the Narcotics Control Bureau seized a massive quantity of contraband from a commercial truck. However, the investigating officer drew samples at the spot of intercept in front of a Gazetted Officer instead of a Magistrate. The Supreme Court ruled that under Section 52A(2), drawing samples and certifying the inventory must happen strictly in the physical presence of a Magistrate. In the absence of a Magistrate's certification, the contraband and the drawn samples fail to qualify as primary evidence. The Court noted that procedure is more important than quantity, set aside the 10-year conviction, and acquitted the accused.

### **Section 52A: Disposal and Sampling of Seized Material**

This section establishes strict protocols to preserve forensic reliability and prevent the tampering of evidence. The law enforcement cannot independently draw samples or prepare inventories in a police station. They must apply to a Magistrate to counter-sign the inventory. The inventory, collection of photographs, and drawing of representative samples must all happen in the presence of the Magistrate, who then certifies them as correct. The certified sample and inventory act as primary evidence during the trial, rendering the physical presentation of bulk drugs unnecessary.

### **Section 52A and the Chain of Custody**

The recent jurisprudence has turned Section 52A the protocol for sampling and inventory

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<sup>14</sup> *Yusuf @ Asif v. State 2023 INSC 912*

before a Magistrate into a primary defence. In *Mangilal (2023)*<sup>15</sup> and *Simarnjit Singh (2023)*<sup>16</sup> cases, the Supreme Court overturned convictions, holding that sampling must strictly take place in the physical presence and under the certification of a Magistrate. If the police draw samples at the time of seizure without a Magistrate's supervision or fail to preserve an unassailable chain of custody, the chemical analysis report loses its primary evidentiary worth. In a similar ruling, the Court acquitted an accused where the contraband sat improperly sealed in an investigating officer's office for 15 days before being processed under Section 52A.

The Supreme Court clarified the extent of Section 52A in *Jothi @ Nagajothi v. State (2025)*,<sup>17</sup> ruling that minor procedural deviations do not automatically derail a prosecution if the foundational chain of custody remains unbroken. The accused must discharge an initial burden by laying factual foundations (asking specific questions to the Investigating Officer during cross-examination) to prove how the procedural deviation caused actual prejudice or tampering risk.

### **Section 52A: Expanding on "Substantial Compliance" vs. Fatal Non-Compliance**

Section 52A dictates that scientific sampling and photography of seized contraband must occur under the direct supervision of a Magistrate. In *Bharat Aambale case*,<sup>18</sup> the Apex Court clarified that the true intent behind Section 52A goes far beyond the mere administrative disposal or destruction of drugs. It is a foundational element designed to protect the integrity of evidence. If there is strict non-compliance (such as the police taking samples on the spot without a Magistrate), the prosecution bears an incredibly high burden to satisfy the court that the evidence was not tampered with. If they fail to provide an explanation for bypassing the Magistrate, the primary evidentiary link is broken, justifying an acquittal.

### **Evidentiary Corroboration & The "Co-Accused" Trap**

The Supreme Court in *Surinder Kumar Khanna v. Intelligence Officer*<sup>19</sup> firmly established that a conviction under the NDPS Act cannot be sustained solely on the basis of a confessional statement made by a co-accused. A co-accused's statement is not an independent, substantive

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<sup>15</sup> *Mangilal v. State of Madhya Pradesh (2023) SCC OnLine SC 862*

<sup>16</sup> *Simarnjit Singh v. State of Punjab (2023) SCC OnLine SC 906*

<sup>17</sup> *Jothi @ Nagajothi v. State (2025) 2025 SCC OnLine SC 2774*

<sup>18</sup> *Bharat Aambale v. The State of Chhattisgarh 2025 INSC 78*

<sup>19</sup> *Surinder Kumar Khanna v. Intelligence Officer, Directorate of Revenue Intelligence (2018) 8 SCC 271*

piece of evidence. If the prosecution fails to recover physical contraband directly from an individual or lacks independent corroborative evidence linking them to the crime, the court will throw out the case.

### **Appellate Treatment of NDPS Acquittals**

In the case *State of Himachal Pradesh v. Rakesh Singh (2025)*,<sup>20</sup> the judgment limited the powers of appellate courts when reviewing a trial court's order of acquittal in NDPS joint-possession matters. An acquittal strengthens the double presumption of innocence. High Courts cannot reverse an acquittal simply because they re-evaluated the evidence and formed a different opinion. Unless the trial court's judgment is proved to be completely perverse or entirely ignores material evidence, the acquittal must be upheld.

### **Section 52A: Lack of Certification Makes FSL Reports "Waste Paper"**

Bypassing judicial inventory validation strips the forensic report of any evidentiary weight. In *Mohammed Khalid (2024)* case,<sup>21</sup> the police recovered 80 kilograms of cannabis (*ganja*). However, the Investigating Officer completely failed to initiate any proceedings before a jurisdictional Magistrate to prepare a certified inventory or to draw samples. The Supreme Court held that since no valid procedure was carried out under Section 52A, the Forensic Science Laboratory (FSL) report is nothing but a "waste paper" and cannot be read as evidence. Because the core link establishing the chemical nature of the seizure was legally void, the convictions were overturned.

### **Section 55 and Section 57: Custody of Property and Reporting**

Section 55 dictates that the officer-in-charge of a police station must take charge of and securely seal all seized articles delivered to them. Concurrently, Section 57 mandates that whenever an officer makes an arrest or seizure, they must submit a full report to their immediate official superior within 48 hours. While minor delays under these sections are occasionally treated as curable irregularities, a systematic pattern of unexcused delays or unexplained lack of official seals undermines the prosecution's credibility. If the defense proves that the samples lay unsecured, or that superiors were deliberately kept in the dark, the court will acquit due to

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<sup>20</sup> *State of Himachal Pradesh v. Rakesh Singh 2025:HHC:5610-DB*

<sup>21</sup> *Mohammed Khalid and Another v. The State of Telangana (2024) 3 S.C.R.*

an untrustworthy investigation.

### **Section 52 & 57: Post-Arrest and Post-Seizure Procedures**

These sections ensure transparency and judicial oversight immediately following law enforcement actions. Under Section 52, any person arrested must be informed of the grounds for their arrest as soon as possible. Arrested individuals and all seized articles must be forwarded without delay to the officer-in-charge of the nearest police station. According to Section 57, the arresting or seizing officer must make a full report of all particulars to their immediate official superior within 48 hours.

### **Section 57 (Reporting Arrest/Seizure Within 48 Hours): Directory**

The Section 57 is of directory in nature, this requires the arresting officer to send a full report to their superior officer within 48 hours of an operation. This is an administrative checklist designed to keep senior police executives informed of field operations. Failing to send this report within 48 hours will not ruin a trial on its own. The court will view it alongside other evidence. It only leads to an acquittal if the defense proves the delay was intentional and part of a malicious, fabricated prosecution. The Supreme Court of India continually reinforces that procedural shortcuts by investigative agencies violate the accused's constitutional right to a fair trial. Recent rulings further sharpen the interpretation of these safeguards, emphasizing that giving "misleading options" to an accused or bypassing judicial oversight will systematically result in an acquittal.

### **Co-Accused Confessions: Insufficient Basis for Conviction**

A confession made to police officers cannot serve as the sole foundation to convict another individual without independent physical recovery. In Tofan Singh (2021) case,<sup>22</sup> the Supreme Court's landmark ruling established that officers of enforcement agencies (like the NCB or state police) are "police officers" under Section 25 of the Indian Evidence Act. Therefore, any confessional statement recorded during interrogation is inadmissible. If the prosecution arrests an individual based purely on the confessional notes of a co-accused, without separate, tangible material or physical recovery of contraband from that individual, the entire case fails the legal threshold, leading to a direct acquittal. The same concept was consistently applied

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<sup>22</sup> Tofan Singh v. State of Tamil Nadu, (2021) 4 SCC 1

in Mohammed Khalid (2024) case.<sup>23</sup>

## **Conclusion**

The procedural safeguards embedded within the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, are not mere technical hurdles for law enforcement; they are the vital constitutional shields that preserve the rule of law in the face of draconian state power. By granting investigative agencies exceptional authorities—including reverse burdens of proof, stringent bail restrictions under Section 37, and severe statutory punishments—the legislature created a high risk for investigative overreach and malicious prosecution. The procedural checkpoints found in Sections 42, 50, 52A, and 57 act as an indispensable counterweight, ensuring that the state's zeal to eradicate drug trafficking does not come at the cost of innocent individual liberties. Indian jurisprudence, through decades of strict Supreme Court oversight, has firmly established that compliance with these provisions is absolute and non-negotiable. The judicial mandate is clear: the harsher the law, the more scrupulously its procedures must be observed. Any investigative shortcut, whether it involves failing to record secret information, bypassing a Magistrate during sampling, or neglecting the mandatory timelines for official reporting, fundamentally compromises the integrity of the prosecution. Such lapses do not just create reasonable doubt; they render the entire recovery of contraband illegal, routinely leading to the acquittal of the accused. Ultimately, the procedural safeguards under the NDPS Act represent a profound democratic truth: a society cannot justly combat crime by discarding the rule of law. To maintain public faith in the judiciary, the process of bringing drug offenders to justice must be as flawless and transparent as the law demands. By demanding strict adherence to these statutory checks and balances, the legal system successfully maintains the delicate equilibrium between collective societal security and the sacred constitutional right to personal liberty.

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<sup>23</sup> Mohammed Khalid v. State of Telangana 2024 INSC 158

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