

Sayar Puri

Vs

State of Rajasthan

Criminal Appeal No. 224 of 1997

(G. T. Nanavati, S. P. Kurdukar JJ)

02.09.1998

JUDGMENT

NANAVATI, J.

1. The appellant has been convicted under Section 8 read with Section 18 of the NDPS Act, 1985 as he was found in possession of opium. He is challenging his conviction in this appeal.
2. The contention raised on behalf of the appellant is that no site plan was prepared by the police to prove that the place where the appellant was found sitting was a part of the public road. In our opinion this contention is misconceived. The police officers who were examined in this case and also the panch witnesses have stated that the accused was found sitting on a bench on the Mandia Road. Thus the accused was found sitting on a public road and, therefore, neither the procedure under Section 42(2) of the Act was required to be followed nor was the site plan required to be prepared. Another contention raised by the appellant is that the requirements of Section 50 of the Act have not been strictly complied with. We find no substance in this contention. Section 50 prescribes the manner in which the search of the person shall be conducted. No breach of any particular condition has been pointed out. Moreover, we find that PW 1 has stated in his evidence that he had complied with those conditions. PW 1 had informed the appellant about his rights. He has further stated that the appellant had told him that he had no objection if he was searched by him.
3. The appeal is, therefore, dismissed.