

Forensics in Drug Cases: How Mandatory Forensic Procedure Operates under the Narcotic Drugs and Psychotropic Substances Act, 1985

Akhila Sawan¹, Shivanshu Katare²

¹Research Scholar, Uttarakhand University

²Assistant Professor, Faculty of Law, Manipal University Jaipur

*Corresponding Author: Shivanshu Katare

Abstract:

In a drug case under the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act), the laboratory report is often the heart of the prosecution. The report is only as reliable as the steps that come before it: weighing, sampling, sealing, inventory, storage and dispatch. This article explains those steps in simple terms and asks how far the law treats them as mandatory. It traces the Supreme Court's movement from a strict reading of section 52A in *Union of India v. Mohanlal* to the "substantial compliance" approach in *Bharat Aambale v. State of Chhattisgarh*. It then reviews recent decisions from 2025 and 2026 to see where courts forgive lapses and where they acquit. The article argues that the present law is fairer to the prosecution than before, but that the test is still vague and the burden of proof is unclear. It closes with practical suggestions for investigators, defence lawyers and courts.

Keywords: NDPS Act; section 52A; forensic evidence; chain of custody; sampling; substantial compliance; Standing Order 1/89

I. Introduction

A person accused under the NDPS Act faces some of the heaviest punishments in Indian criminal law. The sentence depends on the kind of drug and on its weight, and bail is hard to get.¹ Because so much turns on weight and identity, the case usually depends on one question: was the substance seized from the accused really a banned drug, and was it as much as the police say?

Only a laboratory can answer that question. The police send a small sample to a Forensic Science Laboratory (FSL), and the analyst reports what the sample contains. But the court cannot see the laboratory's work. It sees only the paper trail that connects the seizure to the lab. If that trail has gaps, the

¹Narcotic Drugs and Psychotropic Substances Act, 1985, No. 61 of 1985, §§ 21, 37 (India) [hereinafter NDPS Act].

report may refer to a different substance from the one found on the accused. This is why the law lays down a detailed procedure for handling seized drugs, and why defence lawyers so often attack it.

This article looks at the forensic side of NDPS cases. Part II explains why forensic proof matters so much in these cases. Part III sets out the steps of the procedure. Part IV follows the case law on whether those steps are mandatory. Part V looks at recent decisions. Part VI offers a critical view, and Part VII suggests practical improvements. The sources are the statute, the Standing Orders and Rules, and reported decisions of the Supreme Court up to October 2026.

II. Why Forensic Proof Carries So Much Weight

Three features of the NDPS Act make forensic evidence unusually important. First, the punishment depends on quantity. The Act separates small, intermediate and commercial quantities, and the jump in punishment is steep. A few grams can decide whether an accused faces a short term or a minimum of ten years.² Weight and purity are measured facts, not matters of opinion, and they must be proved by reliable material.

Second, the Act contains a presumption against the accused. Under section 54, a court may presume that a person found in possession of a banned drug has committed an offence, unless he explains the possession.³ But a presumption only applies once possession of a banned drug is established. If the drug itself is in doubt, the presumption has nothing to stand on. The Supreme Court has said that where the police have not followed the procedure properly, the courts should be careful before relying on this presumption.⁴

Third, the Supreme Court has held that statements made to officers of the narcotics agencies under section 67 cannot be used as confessions against the accused.⁵ That decision removed a source of evidence that prosecutors once leaned on. After it, the physical drug and the lab report carry even more weight. It follows that courts will look closely at how the drug was handled.

III. The Forensic Chain, Step by Step

The procedure comes from three sources. The first is section 52A of the NDPS Act, which deals with inventory, photographs and sampling before a Magistrate. The second is Standing Order No. 1 of 1989, issued by the Government, which sets out how officers should seize, weigh and sample drugs. The third is the Narcotic Drugs and Psychotropic Substances (Seizure, Storage, Sampling and Disposal) Rules,

²NDPS Act, *supra* note 1, § 21(a)–(c).

³*Id.* § 54.

⁴*Bharat Aambale v. State of Chhattisgarh*, 2025 INSC 78, ¶ 27 (India Jan. 6, 2025) [hereinafter *Aambale*].

⁵*Tofan Singh v. State of Tamil Nadu*, (2021) 4 SCC 1 (India).

2022, which replaced the Standing Orders and gathered the procedure in one place.⁶ Taken together, they create a chain with six links.

- **Seizure and weighing.** The officer finds the substance, tests it on the spot with a field kit if possible, weighs it, and records everything in a seizure memo in the presence of independent witnesses.
- **Sampling.** Representative samples are drawn, normally on the spot. Standing Order No. 1 of 1989 says samples should be taken in duplicate, in the presence of the witnesses and the accused, and that the memo should say so.⁷ Where many packets are seized, identical ones are grouped into lots, and a sample is drawn from each lot rather than from a heap of mixed material.⁸
- **Sealing and labelling.** The sample and the bulk are packed, sealed and labelled with signatures. A specimen of the seal is recorded in a memo so that the court can later check that the seal on the packet is the same one.
- **Inventory and Magistrate certification.** Under section 52A(2) the officer prepares an inventory and applies to a Magistrate to certify it, to take photographs, and to allow representative samples to be drawn in the Magistrate's presence. Under section 52A(4) the inventory, photographs and samples certified in this way are treated as primary evidence.⁹
- **Safe custody and dispatch.** The drug is kept in the police store, called the malkhana, with proper entries in the register, and the samples are sent to the FSL in sealed condition without avoidable delay. Section 55 makes the officer in charge of the police station responsible for safe custody.¹⁰
- **Analysis and disposal.** The FSL examines the sample and issues a report. After the report, the officer applies to the Magistrate for an order to dispose of the remaining drug. Destruction without such an order is itself a breach.

Two kinds of sampling exist side by side, and this is a common source of confusion. The Standing Order contemplates sampling on the spot. Section 52A contemplates sampling before a Magistrate, after the seizure. In *Union of India v. Mohanlal*, the Supreme Court said that nothing in the Act requires samples to be taken at the time of seizure. It also said that only samples drawn in the presence of a Magistrate and certified by him count as primary evidence under section 52A(4).¹¹ Put simply, on-the-spot sampling is allowed, but it does not enjoy the special evidentiary status that section 52A(4) gives to Magistrate-supervised sampling.

⁶NDPS Act, *supra* note 1, § 52A; *Aambale*, *supra* note 4, ¶¶ 8–11 (describing Standing Order No. 1 of 1989 and the 2022 Rules); Narcotic Drugs and Psychotropic Substances (Seizure, Storage, Sampling and Disposal) Rules, 2022, G.S.R. 899(E) (India) (Dec. 23, 2022).

⁷Nadeem Ahamed v. State of West Bengal, 2025 INSC 993, ¶ 28(a) (India Aug. 5, 2025) [hereinafter *Nadeem Ahamed*] (quoting Standing Order No. 1 of 1989, cl. 2.2).

⁸*Aambale*, *supra* note 4, ¶¶ 41–42 (quoting Standing Order No. 1 of 1989, cls. 2.5, 2.8).

⁹NDPS Act, *supra* note 1, § 52A(2)–(4).

¹⁰*Id.* § 55; *Aambale*, *supra* note 4, ¶ 13(vi) (discussing *Union of India v. Mohanlal*, (2016) 3 SCC 379).

¹¹*Union of India v. Mohanlal*, (2016) 3 SCC 379, ¶¶ 15–19 (India), *as quoted in Aambale*, *supra* note 4, ¶ 13.

The Court in *Mohanlal* did not fix a time limit for approaching the Magistrate. It said only that the application must be made without undue delay and that the Magistrate must decide it within a reasonable time.¹² The central notification of 2015 asked the police to apply for disposal within thirty days of receiving the chemical analysis report.¹³ Beyond this, there are no strict deadlines, which gives rise to much of the later litigation.

IV. Is the Procedure Mandatory? The Case Law

A. The strict phase

Early decisions did not treat the procedure as a mere formality. In *Noor Aga v. State of Punjab*, the prosecution said that it had seized 1.4 kg of heroin, but the bulk was never produced in court and no order of a Magistrate allowed its destruction. The weight and colour of the sample also changed between the seizure and the laboratory. The Supreme Court acquitted the accused. It said that the guidelines should be followed in substance, and that in penal matters their rigour may be insisted upon.¹⁴

This strict line reached its high point in a group of decisions from 2023 and 2024. In *Mangilal v. State of Madhya Pradesh*, the Court described section 52A as a mandatory rule of evidence that requires the Magistrate's physical presence, and said the burden of proving compliance lay on the prosecution.¹⁵ In *Yusuf @ Asif v. State*, the Court held that sampling in front of a gazetted officer alone did not satisfy section 52A, and that without primary evidence the trial was vitiated.¹⁶ *Simarnjit Singh v. State of Punjab* held that drawing samples at the time of seizure, without a Magistrate, created serious doubt.¹⁷ In *Mohammed Khalid v. State of Telangana*, the report of the FSL was described as waste paper because no Magistrate had been involved and the custody of the samples was unclear.¹⁸

These decisions made the law easy for the defence. If the police had not gone to a Magistrate, the accused had a strong chance of acquittal, even where other evidence of recovery was good.

B. The turn towards "irregularity"

The next step was *Narcotics Control Bureau v. Kashif*, decided in 2024. A High Court had granted bail because samples were drawn late. The Supreme Court reversed it. It held that section 52A is mainly about the disposal of seized drugs, and that a delay in applying under section 52A(2) is, at most, an irregularity and not an illegality. It said that non-compliance does not by itself vitiate the trial or entitle the accused to

¹² *Id.*

¹³ *Aambale*, *supra* note 4, ¶ 13(vii).

¹⁴ *Noor Aga v. State of Punjab*, (2008) 16 SCC 417, ¶¶ 89–100 (India).

¹⁵ *Mangilal v. State of Madhya Pradesh*, 2023 SCC OnLine SC 862, ¶¶ 4–8 (India).

¹⁶ *Yusuf @ Asif v. State*, 2023 SCC OnLine SC 1328, ¶¶ 13, 16 (India).

¹⁷ *Simarnjit Singh v. State of Punjab*, 2023 SCC OnLine SC 906, ¶ 9 (India).

¹⁸ *Mohammed Khalid v. State of Telangana*, (2024) 5 SCC 393, ¶¶ 24–26 (India).

bail.¹⁹ The Court also observed that the earlier strict decisions had turned on their own facts, and that the larger benches in *Baldev Singh* and *Pooran Mal* should prevail over any wider remarks in smaller benches.

C. Bharat Aambale and the "substantial compliance" test

The leading statement of the present law is *Bharat Aambale v. State of Chhattisgarh*, decided in January 2025. The accused argued that the officer had mixed 73 packets of ganja and drawn two samples from the mixture, and that section 52A had not been followed. The Court rejected the argument and upheld the conviction. In doing so it made the following points.²⁰

- Chapter V of the Act does set out procedural safeguards, but a mere delay or non-compliance does not by itself cause the trial to fail or lead to an automatic acquittal.²¹
- The Court studied the earlier acquittals and noted that each rested on something more than a breach of section 52A, such as hostile witnesses, discrepancies in weight or colour, or unexplained changes in packing.²²
- What the law requires is substantial compliance. Non-compliance may be fatal only if it goes to the root of the case, for example where it makes the identity or quantity of the drug doubtful.²³
- A breach may lead the court to draw an adverse inference against the prosecution, but there is no fixed rule. The court must take an overall view of the discrepancies and link them to the procedural lapse.²⁴
- Section 52A(4) gives primary-evidence status to a certified inventory, photographs and samples only where the Magistrate has certified them and the court is satisfied that the process was substantially followed. In that case, the non-production of the bulk drug does not matter.²⁵
- Even where section 52A is not followed, the prosecution can still prove its case by other evidence, such as the seizing officer, independent witnesses or the bulk drug itself. The court must scrutinise such evidence more carefully.²⁶

This is a middle path. The Court did not say that section 52A is optional. It said that the procedure serves a purpose, which is to protect the identity and integrity of the sample, and that a lapse matters if it damages

¹⁹Narcotics Control Bureau v. Kashif, 2024 SCC OnLine SC 3848, ¶¶ 23–25, 36, 39 (India).

²⁰*Aambale*, *supra* note 4, ¶¶ 23–37.

²¹*Id.* ¶¶ 23–24.

²²*Id.* ¶¶ 24–25.

²³*Id.* ¶ 30.

²⁴*Id.* ¶ 26.

²⁵*Id.* ¶¶ 35–36.

²⁶*Id.* ¶¶ 32, 37.

that purpose. The decision also warned judges against being hyper-technical about small differences in weight or colour, because an officer at a roadside will rarely have a precise scale.²⁷

A decision from January 2025, *Rajwant Singh v. State of Haryana*, added a point on the burden of proof. As reported, the Court held that an accused who alleges non-compliance with section 52A must first lay down the basic facts, either through his own evidence or from gaps visible in the prosecution record, and cannot rely on a bare statement. In that case the defence had not cross-examined the main witness on the point.²⁸ Reports also describe a decision called *Jothi @ Nagajothi v. State*, which treated on-the-spot sampling as valid where the identity of the sample is not in doubt.²⁹

V. Recent Applications: Where Courts Forgive and Where They Acquit

The real test of any rule is how courts apply it. Several decisions from 2025 and 2026 show the line between a lapse that is forgiven and one that is not.

In *Surepally Srinivas v. State of Andhra Pradesh*, decided in March 2025, the seized contraband had been kept in a room in the investigating officer's own office for fifteen days. The officer did not know about Standing Order No. 1 of 1989. The Supreme Court acquitted the three accused. It said that it did not intend to free an accused for a minor breach, but that here there was no substantial compliance, the departure was not explained, and the possibility of tampering could not be excluded.³⁰

Nadeem Ahamed v. State of West Bengal (August 2025) is a useful example of a case that went wrong at almost every link. The officer drew only one sample from each packet instead of two, and the signatures of the accused were missing from the sample labels when they were opened in court. There was no separate seizure list for the samples, no test memo, no weighment chart and no proved specimen seal memo. One of two independent witnesses was not examined. Samples were also deposited at the FSL three days after the attempt to do so. Most importantly, no effort was made to involve a Magistrate under section 52A. The Court acquitted the accused, saying that the procedure had not been treated as mandatory in earlier cases, but that the failures taken together made the whole seizure and sampling unreliable.³¹ The decision also shows how forensic lapses can interact with other defects. The Court separately held that the contraband of two men found walking together could not be added up to reach the commercial quantity without proof of a conspiracy.³²

²⁷ *Id.* ¶ 30.

²⁸ *Rajwant Singh v. State of Haryana* (India Jan. 2025); see Shantanu Jugtawat & Dheeraj Kumar, *The Shield of Substance: Section 52A Compliance in NDPS Prosecutions*, Bar & Bench (Oct. 15, 2026), <https://www.barandbench.com/law-firms/view-point/the-shield-of-substance-section-52a-compliance-in-ndps-prosecutions>.

²⁹ *Id.* (discussing *Jothi @ Nagajothi v. State* (India 2025)).

³⁰ *Surepally Srinivas v. State of Andhra Pradesh*, 2025 INSC 414 (India Mar. 2025); see *Possibility of Tampering Can't Be Ruled Out: Supreme Court Grants Acquittal in NDPS Case Where Seized Contraband Was Kept in Separate Room in IO's Office for 15 Days*, Verdictum (Mar. 31, 2025), <https://www.verdictum.in/court-updates/supreme-court/surepally-srinivas-v-the-state-of-andhra-pradesh-2025-insc-414-ndps-case-seized-contraband-ios-office-1572838>.

³¹ *Nadeem Ahamed*, *supra* note 7, ¶¶ 26–32.

³² *Id.* ¶¶ 22–25.

Not every case ends in acquittal. In *Kailas v. State of Maharashtra* (September 2025), the Bombay High Court had kept the accused in custody, citing several problems, including the failure to play a video during testimony and the non-production of the seized contraband and remnant samples. The Supreme Court set that order aside. It held that non-production of the bulk drug is not fatal where the inventory, sealed samples and FSL report were duly prepared and proved.³³

Recent decisions of 2026 continue this pattern. A bench of Justices Sanjay Karol and N. Kotiswar Singh reportedly held in July 2026 that drawing samples on the spot without a Magistrate is a procedural irregularity that does not by itself lead to acquittal unless prejudice is shown.³⁴ Yet in *Abdul Rajik v. State of Madhya Pradesh*, decided together with *Govind v. State of Madhya Pradesh*, a bench of Justices Sandeep Mehta and Manmohan acquitted two men in a charas case after twenty years. The Court relied on an unexplained five-day gap in the custody of the samples, missing identifying marks and signatures on the packets, no exit entry in the store register, and total non-compliance with section 52A.³⁵

Case	Main forensic lapse	Outcome
Surepally Srinivas (2025)	Contraband kept 15 days in IO's office; standing order ignored	Acquittal
Nadeem Ahamed (2025)	No Magistrate under s. 52A; one sample only; missing signatures and memos	Acquittal
Kailas (2025)	Bulk drug not produced in court; other records proved	Custody order set aside; non-production not fatal
Abdul Rajik / Govind (2026)	Five-day unexplained gap in custody; no s. 52A; missing marks	Acquittal after 20 years

The pattern is clear. Courts forgive isolated or explained lapses, such as delay in approaching the Magistrate or failure to produce the bulk drug when certified records exist. They do not forgive unexplained gaps in custody, wrong or missing documentation, and the total absence of any effort to

³³ *Kailas v. State of Maharashtra*, 2025 LiveLaw (SC) 914 (India Sept. 2025); see *NDPS Act | Non-Production of Contraband in Trial Not Fatal if Seizure, Sample-Drawing Duly Recorded as per S.52A: Supreme Court*, LiveLaw (Sept. 16, 2025), <https://www.livelaw.in/supreme-court/ndps-act-non-production-of-contraband-in-trial-not-fatal-if-seizure-sample-drawing-duly-recorded-as-per-s52a-supreme-court-304050>.

³⁴ *Search of Articles Carried by Accused Does Not Attract Section 50 NDPS Act; Section 52A Delay Procedural Irregularity: Supreme Court*, Law Trend (July 21, 2026), <https://lawtrend.in/search-of-articles-carried-by-accused-does-not-attract-section-50-ndps-act-section-52a-delay-procedural-irregularity-supreme-court/>.

³⁵ *Abdul Rajik v. State of Madhya Pradesh*, 2026 LiveLaw (SC) 949 (India Sept. 2026); see Yash Mittal, *NDPS Act | Unexplained 5-Day Gap in Custody of Samples, Breach of S.52A: Supreme Court Acquits Two Men After 20 Years*, LiveLaw (Sept. 2026), <https://www.livelaw.in/supreme-court/ndps-act-unexplained-5-day-gap-in-custody-of-samples-breach-of-s52a-supreme-court-acquits-two-men-after-20-years-550495>.

follow the law. In short, the question is whether the lapse leaves room to doubt that the sample tested in the laboratory is the same substance seized from the accused.

VI. A Critical View

The development of the law is understandable. Strict rules had led to acquittals in cases where the seizure was otherwise believable, and the Court was right to ask for proof of real prejudice. But the present position leaves several problems.

The test is vague. "Substantial compliance" and "going to the root of the matter" are phrases, not rules. Two trial judges can reasonably take different views of the same lapse. The result is uncertainty for both sides. An officer cannot easily tell which steps he can skip, and an accused cannot easily tell which defects are worth raising.

The burden of proof is unclear. *Mangilal* said that the burden of proving compliance lies on the prosecution, while *Rajwant Singh*, as reported, requires the accused to lay the first foundation. Both can be reconciled, since the accused must first point to the gap, after which the prosecution must explain it, but the Supreme Court has not set out this sequence in a single clear statement. Until it does, the trial courts will apply the burden differently. The sequence also sits uneasily with the facts. Documents such as the malkhana register and the seal memo are in the police's hands, and an accused in custody has little chance of getting them without the court's help.

The law gives little protection against delay by Magistrates. Section 52A(3) requires the Magistrate to allow the application "as soon as may be". In practice, applications can wait for weeks. *Kashif* rightly treated such delay as an irregularity and not as the accused's fault. But if the police have no reliable way of getting a Magistrate to act, they may skip the step and rely on on-the-spot sampling, which Mohanlal says is not primary evidence under section 52A(4). The law tells the police to follow a step that the system does not always allow them to follow.

Fair trial concerns remain. NDPS offences carry long minimum sentences. A conviction that rests on a laboratory report whose chain of custody is doubtful would offend the guarantee of a fair procedure under Article 21 of the Constitution. The decisions that tell courts to be more careful when the procedure is not followed are therefore important, and trial judges should apply them in earnest rather than treat *Aambale* as a ground for excusing lapses.

The standards depend on resources. Many police stations lack safe storage, field kits and accurate scales. Courts are right not to demand perfection. Yet the burden of poor infrastructure falls on the accused if the court accepts the lapse. A system that depends on a lab report should make sure that the steps leading up to it are possible to follow.

VII. Suggestions

The following steps could help investigators, lawyers and courts.

- **For investigators:** treat the seizure memo as a document that must explain every deviation. If a Magistrate is not available, record that fact and the efforts made. Draw samples in duplicate, in lots, with signatures of the witnesses and the accused on the labels, and prepare a specimen seal memo. Keep the malkhana register and the FSL receipt as part of the file.
- **For defence lawyers:** raise the objection at trial and not first in appeal. Cross-examine the seizing officer and the malkhana in-charge on each link of the chain, because the Supreme Court has refused to accept bare allegations. Ask the court to call for the store register and the dispatch records.
- **For courts:** state, at each trial, which lapses were found, whether they were explained, and how they affect the identity and weight of the drug. This makes the "cumulative view" required by *Aambale* visible and capable of review.
- **For the legislature and the executive:** consider fixing a reasonable time for the Magistrate to act under section 52A, and ask High Courts to monitor pending applications. Provide storage, field kits and training to police stations. Consider an electronic record of the chain of custody with time stamps for each step.

VIII. Conclusion

In NDPS cases, the laboratory report is only the last step in a chain of human handling. The law has always wanted that chain to be reliable, and section 52A, the Standing Orders and the 2022 Rules say how. The Supreme Court has moved from treating the steps as strict conditions to treating them as safeguards that must be substantially followed. This brings balance, since a case should not collapse for a small, explained lapse.

But the law is not as clear as it should be. The meaning of "substantial compliance" depends on the facts. The burden of proof is split between the two sides in a way that is not fully explained. And the system of Magistrate supervision cannot always do what the statute expects. Recent acquittals show that courts will still free an accused where the chain of custody is broken without explanation. Investigators who record each step carefully, and courts that explain their reasons, will give the law more certainty than any slogan about compliance. Future research could usefully study how High Courts and trial courts are applying *Aambale* in practice, with the help of case data.