CHAPTER - 6

CONCLUSIONS AND SUGGESTIONS

Drug abuse is some form or other is a universal phenomenon. India is also not an exception. The traditional drugs of abuse in India have been herbal Cannabis and Opium which were available in restricted quantities from licensed shop till recently. As long as drug addiction was confined to certain types of individuals and the problem was managed by the informal mechanism of social control. But the situation has changed dramatically in last two decades because of the steady increase in the clandestine demands for hard drugs like Heroin and Concentrated Cannabis in the affluent Western Countries which have led to the development of illicit conversion of opium into Heroin in the clandestine laboratories in “Golden Triangle” and “Golden Crescent”. Hashish production was increased in Nepal and India’s geographical location soon made it as a conduit for transit of these drugs from the aforesaid source countries to Europe, America and other countries.

While concluding this research, researcher summarizes the findings of every chapter. After analyzing chapter 1, the researcher concludes that the problem of drug addiction has become a great menace in the recent years, posing a serious challenge to all those who want to see a good society. In the contemporary world drug addiction may be conceptualized as crime, without victim, i.e. addict himself is the victim, who become a prey of its misuse. This devastating melody is eroding the roots of social, economic and cultural fabrics of Indian society. It leads to criminality and criminal behavior which eventually leads to social disorganization.

The worldwide control of narcotic drugs and psychotropic substances rests upon multilateral treaties concluded between 1912 and 1988. The international control mechanism is functioning under the auspices of United Nations and one specialized administrative organ, the International Narcotics Control Board (INCB), which is charged particularly with the supervision of provisions of Narcotic treaties. In International perspective various conventions were held being The Hague Convention 1912, The Geneva Convention 1925, Single Convention on Narcotic Drugs 1961, Convention on Psychotropic Substances 1971 and lastly convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 held only with the
objectives to combat the problem of drug abuse in the world and to suggest necessary measures and guidelines to control the same but still the results which were expected in international sphere have not come and drug trafficking problem is still going on which has caused great loss to the public particularly the youth.

The anti-drug abuse legislations were also formulated by individual states being USA, UK as well as India. The main legislation to control drug abuse in India namely the NDPS Act, 1985 came into effect on 14th November, 1985 replacing the Opium Act, 1857, The Opium Act, 1878 and The Dangerous Drugs Act, 1930. The earlier Acts were mainly regulatory and restrictive in character and failed to achieve the desired results keeping in view the alarming increase of drug abuse in India. This Act was further amended in the form of Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (PITNDPS Act). Under the NDPS Act, 1985 an express provision was made for constituting a central authority for the purpose of exercising power and functions of the Central Government namely “Narcotic Control Bureau”, which exercises the power and function of the Central Government. The recent amendment i.e. NDPS (amendment) Act, 2001 is yet another legislative attempt to iron out the anomalies and to remove the technical snags. The Supreme Court of India has also appreciated the role of Indian Parliament for introducing effective provisions in NDPS Act, 1985 in a judgment in Durand Didier versus Chief Secretary, Union Territory of Goa.¹

Both developed and developing countries have fallen an easy prey to this illegitimate activity of the international criminal syndicates dealing with drug trafficking. India is both a producer as well as important transit country for these substances. Many states in the Indian union are considered to be highly vulnerable for the trafficking of these substances and in this regard, the State of Jammu and Kashmir has become highly famous for its involvement in the production of charas and also smuggling of drugs like heroin across the line of actual control for onward transmission to different world destinations. Illicit trafficking in drugs in the country has also assumed alarming position in the North and North-Eastern states. Drug abuse problem is also existing at work place, Universities and even in the lower strata of the

¹ AIR 1989 Supreme Court 1966.
society. Stringent laws and severe punishment have been able to control the menace to some extent but still it is one of the most pertinent threats in the progress of any developing country.

In Chapter-II, the researcher has examined the problem of Use and Misuse of Drugs in India and what are the drugs of misuse in India and their effect on the society and what mechanism is to be developed for controlling and prevention of drug addiction.

Drugs by definition are substances having physiological and psychological effects on human beings and other higher animals. However, these drugs are often misused for their non-therapeutic properties to cause a change in mood, get away from the real world, and many a times, even to end one’s life.

June 26 is celebrated as International Day against Drug Abuse and Illicit Trafficking every year. It is an exercise undertaken by the world community to sensitize the people in general and the youth in particular, to the menace of drugs. Therefore, drug addiction is a social problem, caused by multiple factors. People take drugs for many reasons, peer pressure, relief of stress, increased energy, to relax, to relieve pain, to escape reality, to feel more self-esteem and for recreation. They may take stimulants to keep alert or cocaine for the feeling of excitement, it produces. Athletes and many body builders may take anabolic steroid to increase muscle-mass. Drug addiction is a behaviour whose manifestation depends upon the complex drug-individual-society relationship and which is deeply related in the socio-economic, religious fabric of society. Diverse social factors which are variable in point of time and geography determine to a very great extent the nature of drug abuse. For the same reasons there are variations in the laws on drug abuse control from country to country. A law is made to sub serve particular purpose in a particular social milieu. The variance in legal regulations from state to state concerned with the problem of drug abuse creates a lot of confusion in legal circle.

The worst aspect of the drug addiction is that it makes its deepest impression on those who are most vulnerable youth. Because of their inmate curiosity and thrust for new experiences, the young are particularly susceptible to drug experience. When a substantial percentage of any generation is addicted, the generation has to bear the
loss of contributing citizens and acquires a crippling social burden. The insidious spread of drug addiction in rural communities has posed a serious challenge to the authorities.

Drug addiction has deep familiar concerns. The wide spread abuse of drugs; a human tragedy has a devastating effect on family be it parents, children or other relations. It causes disruption and disharmony within the family and every family member to suffer criminal behavior creeps in the family automatically. Parents cannot often face the fact that their children take the drug or attribute their deviant behavior to something the parents did or did not do in bringing up the child. Shame and embarrassment far too often prevent them from acknowledging their child’s drug habit. In failing to confront the drug problem, they cannot help the child; find the courage and the appropriate means to stop taking drugs.

There are severe social implications of drug addiction. Societies pay a heavy toll for drug addiction. Most of the world drug users are of 18 to 35 years of age and are working persons. They carry their drug taking behavior to the work place, generating a number of serious problems including low production, loss of machinery, continuous absence from the work and increase health care expenses.

The presence of addicts in large numbers in our cities and towns, it is a manifestation not because of an overwhelming need created by the psychological effects of the drugs or inadequate or immature personalities. But of from attitudes, values and definitions favourable to use drug, often learned in drug sub-culture. It is now concern alike of the social reformer, the politician and social scientists to understand the problem, analyze it and find remedies for the same.

After analyzing the historical background, the researcher in this Chapter has analyzed the adverse effects of the drugs namely opium and its derivatives, cocaine, alcohol, sedatives, ganja (cannabis), anabolic steroids, tranquilizers, inhalants, Caffeine/Nicotine etc. which not only destroy the health of individual but cause damage to the entire fabric of the society. The major causes of drug addiction are psychological, differential association, continuing stressful life, physical necessity and easy availability of drug etc. In prevention and control of drug abuse the role of parents, teachers and family etc. cannot be ignored. Various policies have been made
for prevention and control of drug addiction and efforts for its prevention at
community level, family level and college level have been made. Prevention
programmes at work place have been started. Drug prevention centers have been
opened in colleges and work places for proper counseling of drug addicts and to
provide strong motivation and guidance to the drug addicts. As a result of all these
efforts, the drug addiction has been reduced to some extent but this problem in India
is still alarming as youth of India has become addicts to the drugs which requires
immediate attention of the Centre and the State governments as well as non-
governmental organizations (NGOs) working in this field.

The main task behind policy and action regarding the drug trafficking requires
efforts not only to control supplies of drugs but also to reduce demand for drugs.
Prevention, treatment and rehabilitation all requires a positive and life affirming
campaign. Persuasion, motivation, coercion, compulsion and punishment are the
major steps for checking this menace and all of these steps will have to be used so that
drug abusers can be made to resist the temptation for drugs and live a wholesome
drug free life. Here families and voluntary organizations also can play an important
role in bringing back the recovered addicts into the mainstream of social life.

At the international level, the United Nations adopted a global programme of
action in 1990 to be implemented at the national, regional and global levels. In
addition to focusing on enhanced communication, more effective exchange of
information and renewed commitment on the parts of the governments it has also
suggested four specific measures to be adopted. First, prevention should become an
integral element of drug control efforts worldwide. Second, multidimensional drug
control programme involving all the sections of government and society should be
formed. Third, the international drug control treaties should be ratified and
implemented as the basis of a global framework of co-operation. These treaties can
provide a legal foundation for effective drug control co-operation. Lastly, regional
partnership involving neighbouring governments should be used as effective
mechanism for containing the illicit drug problem. Drug abuse thus can be contained
only through cooperation and dedicated efforts.
Finally, it can be concluded that drug addiction is a problem which requires an integrated efforts by various actors namely Government, NGOs, IGOs, social organizations and societies as a whole to check the problem and its adverse effect. A deep and rationale inquiry into the causes of the drug addiction is the need of the hour. The social behavior towards the drug addict should be changed and they should be given the therapeutic treatment. The laws should be relooked and redefined taking strict stand towards drug abusers and peddlers and drug addict should be treated as a victim, not a culprit.

In Chapter-III, the researcher has given brief introduction of all the existing drug laws in India after giving some historical background of drug abuse legislations. The researcher concludes that in India, the earliest enactment on narcotics came on the statute book on 6th June, 1857 in the shape of the Opium Act, 1857, which was concerned with the issue of licenses to cultivators for the cultivation of poppy, delivery of produce to the officers of the Central Government at the established rate and provided for action in case of embezzlement of opium by the cultivators and penalty for illegal purchase of opium etc. It also fixed the duties of landholders and others. This Act was followed by the Opium Act, 1878 which sought to regulate the possession, transport, export, import and sale of opium. The prohibition of poppy cultivation and possession etc. of opium was provided in this Act. Thereafter, the Dangerous Drugs Act, 1930 came in existence in order to honour the international commitment with a view to control certain operations in dangerous drugs. This Act also aimed at increasing penalties for certain offences relating to dangerous drugs and to render uniform all penalties relating to certain operations concerning such drugs. Subsequently, the Drugs and Cosmetics Act, 1940 and the Drugs (Control) Act, 1950 were enacted and considered as steps in the direction of suppressing the trafficking of contraband and the abuse of dangerous drugs. In 1976, the Government of India also set up a National Committee on Drug Addition but its purpose was defeated as the menace spread rapidly in India. Apart from these three Central Acts, several States passed their separate Acts to control the abuse of narcotic drugs.

The main legislation to control the drug abuse in India namely the NDPS Act, 1985 was passed replacing the Opium Act, 1857, the Opium Act, 1878 and the Dangerous Drugs Act, 1930. The NDPS Act, 1985 was followed by the enactment of
the Prevention of Illicit Traffic in the Narcotic Drugs and Psychotropic Substances Act, 1988. The provisions of the Drugs and Cosmetics Act, 1940 and the Prevention of Money Laundering Act, 2002 as amended up to date, supplement the provisions of the NDPS Act, 1985, in the matter of control over manufacture and supply of some of the drugs and forfeiture of property derived from or used in illicit traffic of such drugs and substances. On appreciation of all these drug laws in India, it can be concluded that the legislative mechanism to control the drug abuse in India is sufficient but it is the implementation level which requires more efforts to combat this evil.

In Chapter-IV, the researcher has analyzed the role of enforcement agencies in the enforcement of Drug Laws in India. General enforcement of the provisions of NDPS Act, 1985, is looked after by various enforcement agencies like Custom and Central Excise, State Police, Directorate of Revenue Intelligence (DRI), Central Bureau of Narcotics (CBN), Narcotic Control Bureau, Central Bureau of Investigation etc. Para-Military Forces like BSF, CISF, Coast Guards etc. are also required to play an important role in tackling smuggling of drugs. The NDPS Act, 1985 came into effect from 14th November, 1985 made an expressed provision for constituting a Central authority for the purpose of exercising the power and function of Central Government under the Act. In exercise of the powers, the “Narcotic Control Bureau” was constituted with Headquarters at Delhi w.e.f. 17th March, 1986. The NCB is the Apex Coordinating agency. It strives to promote inter-agency cooperation in India and abroad and implements the provisions of various international conventions relating to drug abuse and illicit drug trafficking, inter-alia, liaisoning with international agencies, such as Interpol, Custom Cooperation Council, SAARC and Enforcement Agencies of various other countries. The Director General, NCB is the Competent Authority to allow controlled delivery operations within and outside the country. The NCB assists the other drugs law enforcement agencies in enhancing their capabilities in combating the menace of drugs. If the record of NCB is appreciated as regards to the seizures of contrabands, it can be said that it has done a tremendous job and succeeded in its mission to control the supply of contrabands. It is necessary for the Central Government to notify the officers of the NCB and other agencies authorizing them for seizure and investigation of NDPS cases as required under the Act for proper investigation, failing to which the search and seizure conducted by the officers of the
NCB is liable to be vitiated as held by the Courts in various judgments, as discussed in this chapter.

The major responsibility for controlling street level peddling and trafficking falls upon the state enforcement agencies, particularly the police. A periodic drives have been launched by the police agencies in the States to combat narcotic menace. The NCB has been carrying out joint operations with the State police to destroy illegal crops every year. This menace of drug abuse has acquired alarming proportions in hill communities particularly, in Kullu Valley where villagers including women, unemployed youths and even school children have been drawn into the trade. Taxi drivers, tourist guides, waiters and other connected with tourist trade have drawn to easy money. The easy availability of high quality cannabis at a very cheaper rate attracts a large number of foreigners to the Kullu Valley every year. In such circumstances, the role of local police is very important in dealing with specific area problem.

The Local police has to play a lead role in handling drug cases as most of the cases are being investigated by the local police. Generally public witnesses are reluctant to join the investigation and due to lack of independent corroboration, the accused are being acquitted by the courts at different levels. This approach of the Court was not appreciated by Apex Court and gave a note of caution to the Courts while lauding the role of local police in Government of NCT of Delhi versus Sunil and another.\(^2\) The Supreme Court of India in various judgments of recent time has adopted pragmatic approach in dealing with the investigation of these cases by the investigating agency as now a days it is very difficult to join independent witness due to non-cooperation of general public with the investigating agency particularly in drug cases. In Ram Swaroop versus State (Govt. of NCT) of Delhi,\(^3\) it was held that generally the public at large is reluctant to come forward to depose before the court and therefore, the prosecution case cannot be doubted for non-examining the independent witnesses. There is no absolute rule that police officers cannot be cited as witnesses and their depositions should be treated with suspect and conviction of the

\(^2\)(2001) 1 SCC 52.

\(^3\)2013 CrL.L.J. 2997.
accused was upheld on the basis of the statements of police official witnesses. In another judgment on an earlier occasion, the Hon’ble Apex Court gave a caution to the various courts in India that statement of police official witnesses could not be discarded only on the ground that no independent witness was examined where their depositions are trustworthy and reliable and this very important observation was made by Apex Court in *State, Govt. of NCT, Delhi versus Sunil and another (supra)*, which is necessary to quote:

> We feel that it is an archaic notion that actions of the police officer should be approached with initial distrust. We are aware that such a notion was lavishly entertained during the British period and policemen also knew about it. Its hangover persisted during post-independent years but it is time now to start placing at least initial trust on the actions and the documents made by the police. At any rate, the court cannot start with the presumption that the police records are untrustworthy. As a proposition of law the presumption should be the other way around. That official acts of the police have been regularly performed is a wise principle of presumption and recognized even by the legislature. Hence when a police officer gives evidence in court that a certain article was recovered by him on the strength of the statement made by the accused it is open to the court to believe the version to be correct if it is not otherwise shown to be unreliable. It is for the accused, through cross-examination of witnesses or through any other materials, to show that the evidence of the police officer is either unreliable or at least unsafe to be acted upon in a particular case. If the court has any good reason to suspect the truthfulness of such records of the police the court could certainly take into account the fact that no other independent person was present at the time of recovery. But it is not a legally approvable procedure to presume the police action as unreliable to start with, nor to jettison such action merely for the reason that police did not collect signatures of independent persons in the documents made contemporaneous with such actions.

In this manner, the Hon’ble Supreme Court has given healthy sign to the enforcement agencies as regards the investigation of drug cases because if the cases
are investigated by the police in a fair and proper manner, then their evidence cannot be disbelieved only on the ground that no independent witness was joined. The Central Bureau of Investigation (CBI) is also the premier investigating police agency in India. CBI as an organization is held in high esteem by the Supreme Court, the High Courts, the Parliament and the public. The CBI has to investigate major crimes in the country having inter-state and international ramifications besides collecting criminal intelligence pertaining to three main areas of operations, viz. anti-corruption, economic crimes and special crimes. This agency also deals with cases of large scale smuggling of narcotics. The role of this agency regarding investigation of NDPS cases has been discussed by various Courts.

The researcher in Chapter-IV has further analyzed the role of Directorate of Revenue Intelligence, Custom Authorities, Enforcement Directorate and Security Forces. The Directorate of Revenue Intelligence (DRI) primarily undertakes all the aspects of work pertaining to Customs, Central Excise and Narcotics. The DRI in its present form is a lean organization charged essentially with the collection of intelligence, its analysis, collation, interpretation and dissemination on matters relating to violation of custom laws and to a lesser extent, anti-narcotics law. The DRI functions under the Central Board of Excise and Customs in the Ministry of Finance, Department of Revenue. In order to ensure effective discharge of its responsibilities, DRI maintains close liaison with all the important enforcement agencies in India like the Central Economic Intelligence Bureau, Income-tax department, Enforcement Directorate, Narcotics Control Bureau, Directorate General of Foreign Trade, Border Security Force, Central Bureau of Investigation, Coast Guard, the State Police authorities and also with all the Customs and Central Excise Commissionerates. It also maintains close liaison with the World Customs Organisation, Brussels, the Regional Intelligence Liaison Office at Tokyo, Interpol and foreign Customs Administrations. No doubt, the Courts at various occasions while dealing with the cases wherein investigation was conducted by the Officers of DRI cautioned them for leaving lacunae but still it can be concluded that role of this agency is very important as the same is dealing with anti-narcotic laws in an effective manner most of the times.
Indian customs not only tackles drug trafficking at the borders but is also mandated to fight this menace within the country. The Indian customs has been in the forefront of fight against drug trafficking. The networking of Indian customs with other agencies in India and in foreign countries has resulted in interception of a large number of drug consignments and action against prominent drug traffickers both within India and abroad. It actively encourages the informers to provide intelligence about drug trafficking. The custom authorities recovered huge quantity of hashish and documents. The Enforcement Directorate (ED) undertakes to enforce Foreign Exchange Management Act, 1999 and Prevention of Money Laundering Act, 2002 and to attach and confiscate property involved in the Act of Money Laundering. The security forces like Border Security Force (BSF), Indian Coast Guard and CISF have played role in making recovery of contrabands at borders and during security of airports etc. The Courts have issued necessary directions to all the investigating agencies to make compliance of mandatory provisions of the NDPS Act, failing to which the search and seizure would be vitiated and accused would be entitled for acquittal due to lack of investigating agencies. In order to combat the problem of drug abuse, international cooperation in the field is also necessary. India has been endeavouring to enter into bilateral agreements with likeminded countries in the matter of combating illicit traffic in drugs in view of 1988 UN Convention. India has signed extradition treaties, mutual legal assistance agreements and other specific agreements to combat terrorism and organized crime. Besides, international coordination, the national coordination of various agencies of central and state governments with regard to the drug laws enforcement in the country is essential. The Narcotics Control Bureau is the national nodal agency for matters relating to drug law enforcement in India. There are various coordination forums being maintained by India by holding meetings of different agencies at different time intervals. It may be concluded that the enforcement agencies must take a note of legal directions given by various courts while discussing the role of investigating agencies pertaining to compliance of mandatory provisions and other provisions of the NDPS Act, particularly Sections 41, 42, 50, 52, 55 and 57. On analysis of the various judgments of the Courts, it is concluded that for the fault of investigating agency, victim is not liable to be suffered and where the investigating officers have deliberately rendered the investigation defective, they are liable for disciplinary actions. Despite some
lacunae in investigation of cases, still the role of these enforcement agencies is laudable and has been appreciated even by the courts from time to time.

In Chapter-V, Judicial Response in Drug Laws Enforcement has been analyzed by the researcher by discussing penal policy as enumerated in NDPS Act. The NDPS Act, 1985 stands out from all other socio-economic legislations due to incorporation of various provisions prescribing harsh punishments. There is a minimum of 10 years rigorous imprisonment and a fine of one lac rupees prescribed as punishment for various offences making the punishments as strict as possible. But due to excessive misuse of the provisions the amendments have been made in 2001 which divides the whole offences into three categories, one where the particular offence involves commercial quantity, second which involves a small quantity and third offence which involves quantities less than commercial but more than small quantity. The offences and penalties enumerated under NDPS Act have been discussed in this chapter. The Judicial Response in Drug Laws Enforcement in India, has been analyzed critically by the researcher under the following heads:-

(i) Recovery of contraband, search and seizure
(ii) Mandatory provisions: Non-compliance and effects thereof
(iii) Samples and FSL reports
(iv) Independent witness
(v) Juvenile Offenders under NDPS Act
(vi) Bail
(vii) Forfeiture of property derived from or used in illicit traffic under The NDPS Act.

It is necessary that search and seizure as well as recovery of contraband are to be made by an authorized person and compliance of Sections 41 and 42 of the NDPS Act are mandatory. Non-compliance thereof would vitiate the search and seizure of the contraband. No such requirement as contemplated under Sections 41 and 42 is applicable where such empowered officer is conducting search and seizure in public place. This matter has been considered by the Supreme Court of India in State of
Punjab versus Balbir Singh,⁴ and laid down certain directions regarding compliance of mandatory provisions and Sections 41 and 42 were held as mandatory in nature and contravention of same would affect the prosecution case and vitiate the trial. A Three judge bench of Supreme Court of India as reported in Sajjan Abraham versus State of Kerala,⁵ observed that if keeping in view the urgency and the grounds of information and reasons thereof cannot be recorded, the empowered officer can affect search and seizure and such breach of Sections 41 and 42 of the NDPS Act would not affect the case at all.

Democracy essentially includes social democracy which means a way of life with monumental liberty, equality and fraternity as the principles of life. Such liberty cannot be divorced from economic democracy. The widespread evil of drug trafficking not only creates shackles on these principles but leads to a complete impediment in the progress of the country in various fields. The expression ‘reason to believe’ in the context of a provision of NDPS Act has been a matter of great legal controversy. It does not mean a purely subjective satisfaction on the part of the concerned officer while he has to search a suspect carrying drugs, it has to be a belief in good faith and not on a mere pretense. The provisions of Sections 42 and 50 have been subjected to the principle of statutory interpretation by various decisions of the Supreme Court including that of a Constitution Bench in the case of State of Punjab versus Baldev Singh etc.⁶ It was also held in this judgment that compliance of Section 50 of the NDPS Act is mandatory and search and seizure made in violation thereof is illegal. Under Section 50 of the Act, it is a legal right of the accused to be apprised by the investigating agency as to whether he wants to be searched before a Gazetted Officer or a Magistrate and it is not a mere formality. This compliance of Section 50 of the Act is necessary when contraband is to be recovered from the person of the accused but this provision does not extend to search of a vehicle or container or a bag or premises as held by Punjab & Haryana High Court in Bachan Singh versus State of Haryana.⁷ The investigating agencies are bound to follow the procedure of search

⁴ AIR 1994 Supreme Court 1872.
⁵ AIR 2001 Supreme Court 3190.
⁶ AIR 1999 Supreme Court 2378.
⁷ 2004 (2) RCR (Criminal) 394 (P&H).
and seizure as no female shall be searched by anyone except a female. When female accused was searched by male person, the search become illegal and accused was acquitted on this ground in *State of Punjab versus Surinder Rani@ Chindi.*

It has been observed by the Apex Court as well as various High Courts that notice under Section 50 of the Act is mandatory in personal search and further, the accused are being acquitted on minor technical grounds. There had been difference of opinion whether requirement of Section 50 should be applicable when a bag or other container found on the person of an accused during the course of search being conducted. This matter has been considered by the Hon’ble Supreme Court of India in *State of Himachal Pradesh versus Pawan Kumar,* and a Bench of three learned Judges held that provisions of Section 50 will come into play only in case of personal search of the accused and not of some baggage like a bag, article or container etc. which he may be carrying. In this manner, the Supreme Court of India curtailed the extension of requirement of notice under Section 50 of the Act in case of bag, container etc. and only confined in case of personal search of the accused. Such approach of the Court is praise worthy in the given circumstances of the country as the drug business is on increasing trend due to a big profit and if the courts deal with the matter keeping in view exigency of the time, naturally it would facilitate decrease in this crime of drug abuse and therefore, the acquittal of the accused in drug cases should be avoided on the basis of mere technicalities of law.

Whenever incriminating articles are seized, the prosecution is required to send the sample of contraband to Forensic Science Laboratory (FSL). Therefore, the seized article should be sealed immediately and same should be deposited in Malkhana of concerned Police Station and same be kept intact till deposited for analysis to FSL. The impression of seal used on sealed articles is to be put on CFSL form in order to rule out the possibility of tampering of seal on a sealed packet after seizure till the receipt of the same in laboratory. If any violation is proved on record, which has caused prejudice to the accused, the accused is entitled for acquittal as held by the Courts in India. No doubt, provisions of Section 55 of the NDPS Act are only

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8 2001 (4) RCR(Criminal) 776 (SC).
9 AIR 2005 Supreme Court 2265.
directory and not mandatory as held in *Valsala versus State of Kerala.* In this case, there was no evidence to show that recovered article was properly sealed and kept in proper custody and there was unexplained delay of three months in sending the articles to the court, the conviction under Section 21 of the Act was held unsustainable. Therefore, it is concluded that the contraband articles recovered must be properly sealed and preserved. The requirement of independent witnesses not necessary in each and every case as it depends upon facts and circumstances of an individual case. No doubt, while making a search and seizure, independent witness should be joined but in lacking thereof, it is the bounden duty of the Court to scrutinize the evidence of police officials with due care and caution. In *Ram Singh versus State of Haryana,* there was recovery of contraband and the public witness was joined in the investigation but he did not support the prosecution story. In this case both the official witnesses were consistent in their statements regarding factum of recovery, place of recovery, time of recovery and the manner in which search was conducted and how the sample was taken and preserved and the conviction of the accused was upheld. Therefore, if the evidence of police official witnesses is trustworthy and reliable, conviction of accused persons can be warranted even in lacking of independent corroboration. Now a days, the Courts are taking a proactive view as they are not pressing public witnesses at every occasion but the evidence of police official witnesses is required to be appreciated in the given facts and circumstances of an individual case.

The cases of juveniles conflict with law under the provisions of NDPS Act, 1985 are to be dealt keeping in view the objectives of the Juvenile Justice (Care and Protection of Children), Act 2000 and as amended up to date. The Courts are governed by the provision of this Act 2000 pertaining to offences committed by the juvenile’s conflict with law. When a juvenile offender under the NDPS Act is produced before the Special Court, it is incumbent upon the court to consider prayer for bail of the juvenile offender. While dealing with an application for grant of bail, Court of Sessions or High Court as a Juvenile Court are empowered to release the

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101994 Cri.L.J.1 (SC).
112000 (1) RCR (Criminal) 541 (P&H).
accused on bail in exercise of powers under Section 12 of the Juvenile Act, 2000. The Court has to record a definite finding that the petitioner is a child, as such he is to be released on bail under Section 12 of the Juvenile Act as there is nothing on record to believe that the release of the juvenile is likely to bring him into association with any known criminal or expose him to moral dangers or that his release shall defeat the ends of justice. The Courts at some occasions have taken the view that provisions of Section 37 of the NDPS Act dealing with the bail has over riding effect over the other laws and this approach of the courts is not finding match with the objectives of the Juvenile Act, 2000 as in case of bail of juvenile offender, in every case his matter should be considered under Section 12 of the Juvenile Act as same was passed after NDPS Act, which is a Special Act. As regards the other accused is concerned, conditions imposed for grant of bail under Section 37 of the NDPS Act are totally justified. The NDPS Act is a Special Act dealing with special class of crime which is an international menace; therefore, the legislature in its wisdom has enacted certain special provisions affecting the powers of Trial Court in the matter of granting the bail. The Court can allow bail only if it has reasonable feeling that the accused may not have committed the offence and further, if the accused is allowed bail, he will not commit any offence as this view has been supported by the Punjab & Haryana High Court in Gopi Ram versus State of Haryana.\textsuperscript{12}

Under Section 437 Cr.P.C., the burden is on the prosecution to show the existence of reasonable grounds for believing that the accused is guilty while under Section 37 of the Act, the burden is on the accused to show the existence of reasonable grounds for the belief that he is not guilty of the offence. Since the offence under NDPS Act is so serious and stringent provision has been made for release of such an accused under Section 37 of the Act. It is concluded that for an offence under NDPS Act, his request for bail would be considered when public prosecutor has an opportunity to oppose such bail and the court is satisfied with the material collected that there are reasonable grounds to believe that against whom the accusation is made is not guilty of such an offence and thirdly, in case of release, he is not likely to commit such offence. Therefore, Section 37 of the NDPS Act pertaining to bail is a

\textsuperscript{12}1994 (2) Crimes 1075 (P&H).
very strict provision and even discretionary power conferred under Section 439 Cr.P.C. is subject to limitation under Section 37 of the NDPS Act. The position is reverse as regards bail under NDPS Act as refusal of bail is rule and granting of bail is an exception. The NDPS Act is silent regarding extension of benefit of anticipatory bail to the accused and therefore, the Special Court can entertain applications for pre-arrest bail and dispose of the same under Section 438 Cr.P.C.

In India, forfeiture of property is not a new tool invented for the purpose of curbing the illegal and nefarious activities of criminals indulging in heinous crime which have devastating effect on peace, tranquility, economy of the nation and health of the citizens. Section 126 of the Indian Penal Code took care to prescribe the punishment of forfeiture of property of the offenders in certain cases such as committing depredations on territories of power at peace with the Government of India. The Indian Parliament has introduced the system of forfeiture of property by incorporating a new chapter 5-A titled “Forfeiture of property derived from or used in illicit traffic” under the NDPS Act, 1985 by NDPS (Amendment) Act, 1988. The response by Indian Parliament to the wealth and assets granted by illicit drug trade, though delayed but there is no doubt that the time for implementation of forfeiture provision was the most appropriate. The NDPS (Amendment) Act, 1988 which comprises 26 Sections (Section 68-A to 68-Z) provides strong teeth for the forfeiture of property acquired from or used in illicit traffic of narcotic drugs and psychotropic substances. Keeping in view the nature and gravity of the problem, there is a need for highly specialized training of the selected officers of the enforcement agencies and they should exclusively be assigned the job of tracing, identification, freezing and forfeiture of the illegally acquired property. Financial investigations leading to asset forfeiture has of late been accorded a lot of importance internationally. The Narcotics Control Bureau (NCB) has also focused its attention on its area of drug law enforcement during the last few years. Still they have not been able to take full advantage of the provisions relating to forfeiture as contained in the NDPS Act, 1985. Thus, the researcher while concluding the research concludes the following:-

1. In India, the National drug policy follows the lines drawn by legislation and focus has been on demand reduction through prevention and treatment, and supply reduction through enforcement activities. However, there has been a clear emphasis
of political support and resource allocation for supply reduction. One example of this relates to one of the 2001 amendments to the act, which created a National fund for control of drug abuse. This was designed to support the expansion of demand reduction programmes.

2. Primarily judiciary has very limited role to play as it can punish the drug addicts but it cannot remove this evil from the society. There are many other aspects of this problem which are by no way connected to judiciary. Social working groups have very big role to play in this concern as drug addiction is purely a social evil rather than a legal problem. It is pertinent from the Judicial decision that menace of trafficking in narcotics drugs and psychotropic substance has to be dealt with severely but in view of the provision of Section 27 of the NDPS Act, courts have punished the accused with punishment which may extend to one year or fine to up to twenty thousand rupees or punishment up to 6 months or ten thousand rupees, this situation is needed to be improved by amendment and making provisions for severe punishment to drug smugglers and drug peddlers. Drug addicts have also been threatened by showing threat of punishment by which he should undergo medical treatment and prevention programme by which ultimately this problem should be eradicated.

3. Illicit trafficking in drug in the country has assumed alarming proportion in the North and North-Eastern states. The smuggling proportion of heroin through Indo-Pak, Indo-Burma and Indo-Nepal Borders has been matter of serious concern at the highest level. The emergence of business in drugs as the worst form of organized crime has not only affected the well-being and welfare of the large population but also has posed an unprecedented threat to the quality of life for the future generations.

4. Responding to the seriousness of problem, the Government of India enacted a very stringent and comprehensive Law. The Narcotic Drugs and Psychotropic Substances Act 1985, which inter-alia provides for a minimum punishment of 10 years rigorous imprisonment and a fine of Rs.1 Lakh which may go up to Rs. 3 Lakhs. Moreover, the courts have been empowered to impose fine exceeding these limits for reasons to be recorded in their judgments. The NDPS Act was amended in December 1988 to impose a stringent punishment for financing illicit
traffic and harbouring offenders including death penalty for perpetrators of this crime. It also prescribes forfeiture of property derived or used in illicit traffic.

5. A Central Authority called “The Narcotic Control Bureau” was also set up under this act to co-ordinate the enforcement efforts of the various agencies in the country and also for carrying out the obligations under the different international conventions to which India is a party.

6. The prosecution under the NDPS Act failed mostly on technical grounds. The current NDPS (Amendment) Act 2001 is yet another legislative attempt to iron out the anomalies and to remove the technical snags recasting almost the entire statute. The current amendment extended the scope of the operation of the Act to all citizens of India outside and all persons on ships or aircrafts registered in India. To identify the persons involved in the commission of an offence under the Act, the new scheme of ‘controlled substances’ and ‘controlled delivery’ has been introduced with more severe punishment for the offenders involved in dealing with ‘commercial quantity’. The expression ‘small quantity’ has been specifically defined to avoid confusion.

7. The scope for application of the National Funds for control of Drug Abuse has been widened to defray the expenses in connection with identifying, treating and rehabilitating drug addicts and also to educate public against drug abuse. In entire scheme of punishment for the offences under the act underwent radical changes where the contravention involving ‘small quantity’ for personal consumption has been provided with liberal punishment whereas the offences involving ‘commercial quantity’ has been provided with severe punishment extending to 20 years. For the second and subsequent offences under the act involving ‘commercial quantity’, death penalty has been provided.

8. Prior to amendment, most of the prosecutions under the Act failed due to technical defects in search, seizure and arrest of the offenders and irregularities in investigation. Necessary changes have been introduced relating to the matter of personal search and seizure. Strong presumption of possession under Section 54 can only be rebutted by the accused on furnishing satisfactory explanation for such
possession. Drug addicts volunteering for treatment may now have immunity from prosecution.

9. Contemporary international drug policy seeks to control the demand and supply of drugs through the criminalization of production, trafficking, and use. Furthermore adherence to the United Nations and drug control conventions ensure that most nation states adopt a similar prohibition oriented approach when formulating national drug control legislation. Recent studies suggest that this can be problematic in some Asian countries where longstanding cultural sanctions already existed for drug use, particularly those involving psychoactive plant products such as cannabis and opium.

10. In the light of magnitude of this drug abuse problem in India, the legal strategy for its prevention and control has been discussed in details in Chapter-V under various heads along with the important judgments of Supreme Court and various High Courts.

11. In order to combat the menace of the twin evils of terrorism and traffic in drugs, the civilized nations of the world under the banner of the United Nations, the First International Convention on Narcotic Drugs was adopted by the United Nations Conference in Vienna in February 1971. The U.N. Convention against illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988 was also adopted. On similar lines, SAARC convention on Narcotic Drugs and Psychotropic Substances on regional level was also drafted to give effect to international obligations arising out from various international conventions.

If the overall view is appreciated in totality, there is maximum acquittal in drug cases due to main loopholes/technical flaws like, (i) lack of cooperation from public or independent witness; (ii) casual method of investigating the cases, allowing lacunae in the investigation; (iii) liberal construction of statutes in favour of the accused and (iv) unusual delay and low percentage of conviction but now the trend is slowly changing as various judgments have been passed by the Supreme Court and various High Courts. For example, in past the accused were acquitted due to non-joining of independent witnesses but now even if the independent witness has not joined, the evidence of official witnesses is given weightage and conviction can be
based solely on the evidence of official witnesses. Same thing has happened with the other important Section of the NDPS Act like Sections 41, 42, 43, 50, 52, 55 and 57 as the provisions of these sections are mandatory and concerned officials are bound to comply with the same but their non-compliance per se would not prove fatal unless it has resulted in miscarriage of the justice or caused prejudice to the accused on the facts of cases. It has come to notice that the judiciary holds sympathetic view towards the accused that has been charged under this act. But now some changes are coming and there is great need of such changes. If the accused who commit crime under this Act acquitted in this way, then there is no need of such law. No doubt, this Act has many stringent and deterrent provisions, the judiciary while implementing this Act should give weightage to both sides and should find some innovative ways to bring truth to the light and no criminal should go unpunished. It is now high time that necessary changes in the Act should be brought in order to achieve desired results.

SUGGESTIONS

On the basis of the aforesaid study, the following suggestions are submitted to make law more effective and efficient.

(1) Despite wide ranging changes made twice in NDPS Act, it is still vague and deficient in certain aspects. These defects in law have been compounded with each amendment. Emphasize should also be given to draft the law in easy language not only to make it popular among the masses but also with a view to eliminate the scope of different interpretations of law by the public, investigating agencies and judiciary. Under Section 36 A (1) (b) the Judicial Magistrates have been empowered to detain and remand an arrestee to custody for a period not exceeding fifteen days in total. Unlike, Section 167 (2) of Cr.P.C., the NDPS Act has not specified the outer period of detention except for selected offences of commercial quantity. There is virtually horizontal split in the higher judiciary in this regard. Many High Courts have held that a Magistrate becomes functus officio after 15 days and for further remands the accused persons are to be produced before Special Judge. However, the Punjab & Haryana High Court in case of Janta Singh versus State of Punjab\textsuperscript{13} has held that till Special Courts are constituted, the Judicial Magistrates can remand the

\textsuperscript{13}1996 Cri.L.J.1185 (P&H) (FB).
accused persons beyond the period of 15 days. Similar view on this point has also
been taken in judgment *Alimuddin versus State of Rajasthan*.\(^\text{14}\) Still both these High
Courts remained short of declaring that even after Constitution of Special Courts, the
Special Judge should not be asked to perform the function of Magistracy which
frustrates the objective of speedy trial of cases. Even confusion went to such a limit
that the Orissa High Court held in a case *Bimbadhar Behera versus State of Orissa*\(^\text{15}\) in
the year 1993 that Magistrates can remand the accused persons beyond 90 days, not
to speak of 15 days. Therefore, specific and clear amendment or modification in
Section 36 A is required.

(2) As per Section 36 A (4) in respect of persons accused of an offence
punishable under Section 19 or Section 24 or Section 27 A or for offences involving
commercial quantity, the custody of the accused may be continued up to 180 days if
investigation is not completed instead of 90 days as prescribed under Section 167 (2)
Cr.P.C. Even if it is not possible to complete the investigation within the said period
of 180 days, the Special Court may extend the said period up to one year on the report
of Public Prosecutor indicating the progress of the investigation. This provision
giving so much leverage to the investigating agency is totally against the speedy trial
of such cases as speedy trial of the accused is his Constitutional right. In cases under
NDPS Act, to provide such a long period for investigation, is not justified because
mere conscious possession of contraband itself is an offence under different
provisions of the Act. This provision is directly hit the constitutional right of the
accused and creates the obstacle in speedy trial of these cases which is the main
objective of this Special Act. Even there is no need to give such a long time for
investigation and hence, Section 36 A (4) is required necessary amendment or
modification for reducing the period of investigation where the accused is in custody
not exceeding 90 days in any case.

(3) Prior to 1989 amendments, no pre-conditions were imposed for grant of
bail under Section 37 of the NDPS Act and the bail applications were governed as per
provision of Cr.P.C. In 1989, few conditions were imposed for grant of bail to those

\(^{14}\) 1991 (1) EFR 263 (Raj.) (FB).

\(^{15}\) 1993 Drug Cases 146 (DB).
Narcotic offences which invited imprisonment for five years. Now the pre-conditions have been restricted to the offences involving commercial quantity or offences falling under Sections 19, 24, 27 A of the Act only. Despite the same, still these Legislations remained hazy regarding the powers of Judicial Magistrate to entertain the bail application. By virtue of amendment of Section 36A, the Judicial Magistrates have been empowered (impliedly) to try the offences which are punishable for a term of three years and less by adopting summary procedure under sub Section 5 of Section 36 AA. The 2001 Amendment has given the power of trial but did not specifically has given power to the Magistrates to accept the bail prayers. Under Section 36 A (1) (b) the Magistrates are required to forward an arrestee to the Special Courts, if detention of such person is found unnecessary. Therefore, this proviso acts as a taboo upon the power of Magistrates to grant the bail to the accused persons even in petty offences and same is required attention of the legislators to make necessary amendments or modifications in this provision to give clarity on this issue.

(4) The NDPS Act is conspicuously silent regarding extension of the benefit of anticipatory bail to the accused persons. The Special Courts can invoke Section 36-C of the NDPS Act wherein such Courts have been permitted to work under the umbrella of Cr.P.C. In the absence of any specific embargo in the Act, like certain restrictions and pre-conditions imposed under Section 37 for granting regular bail, it can only be inferred that the Special Courts, which are deemed to be Court of Sessions, can entertain applications for pre-arrest bail and dispose of the same under Section 438 Cr.P.C. The position of High Courts in the matter of anticipatory bail is more piquant. Somehow Special Courts have been declared to be the Court of Sessions having limited powers to entertain bail applications which fall in the category of Section 439 Cr.P.C. This is clearly a ridiculous position of law. To wipe out this anomaly, the Courts have taken two decades when Hon’ble Gauhati High Court in Baljeet Singh versus State of Assam held that it would be wholly incompatible with the idea that it has been denuded of its powers under section 438 Cr.P.C. Their Lordships further held that in conformity with the Legislative intent expressed in Section 36B (Power relating to appeals and revisions) to construe that in

162004 (1) Gau.L.R.94 (Gau.).
scheme of the Act as envisaged under Chapter IV thereof, the power of High Court to grant pre-arrest bail under Section 438 Cr.P.C. was preserved. It is high time that this deficiency in the law should be cured legislatively for effective implementation of the provisions of Drug Laws in India.

(5) Section 27 of the NDPS Act deals with illegal possession of narcotic drugs etc. for personal consumption in small quantity. Prior to 2001 amendment, the punishment for this offence was one year or fine if the drug was cocaine, morphine and diacetyl-morphine and six months or fine for possessing other drugs in small quantity. Under the said pre-amended Act the Govt. of India determined the ‘small quantity’ vide Notification dated 14.11.1985. The table of ‘small quantity’ has been upwardly revised vide Gazette Notification dated 19.10.2001. The following table would show the said difference:-

<table>
<thead>
<tr>
<th>Name of the drug</th>
<th>Small quantity (Pre 2001)</th>
<th>Small quantity (Post 2001)</th>
<th>Ratio of increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Heroin/Brown Sugar</td>
<td>250 mgs</td>
<td>5 gms</td>
<td>20 times</td>
</tr>
<tr>
<td>2. Hashish or Charas</td>
<td>5 gms</td>
<td>100 gms</td>
<td>20 times</td>
</tr>
<tr>
<td>3. Opium</td>
<td>5 gms</td>
<td>25 gms</td>
<td>5 times</td>
</tr>
<tr>
<td>4. Cocaine</td>
<td>125 mgs</td>
<td>2 gms</td>
<td>16 times</td>
</tr>
<tr>
<td>5. Ganja</td>
<td>500 gms</td>
<td>1000 gms</td>
<td>2 times</td>
</tr>
</tbody>
</table>

While the entire world is unsuccessfully trying to control the menace of drug-trafficking and drug abuse, the Govt. of India has increased the quantity of drugs which falls in the category of ‘small quantity’ which is contrary to the objectives of the enactment of NDPS Act. The reasons for this are best known to the government but it requires reconsideration and revaluation at the level of competent authorities or Legislature to wipe out these anomalies in order to combat the drug menace in India.
(6) It has been experienced that the big offenders are being acquitted by the courts on technical grounds or due to defective investigation conducted by the police for ulterior motives. The courts must also share the responsibility to the ideals as enshrined in NDPS Act as an offence relating to Narcotic Drugs and Psychotropic Substances is more heinous than a culpable homicide because the later affects only an individual while the former affects and leaves its deleterious impact on the society, besides shattering the economy of the nation as well. In these circumstances, the court should consider the following points while operating sentencing system under the NDPS Act.

a. The Courts must not only keep in view the rights of the criminal but also the right of the victim of the crime and the society at large while considering the imposition of appropriate punishment.

b. It is the nature and gravity of the crime but not the criminal which are germane for consideration of appropriate punishment on a criminal in a criminal trial.

c. Under sympathy to impose inadequate sentence would do more harm to the justice delivery system, to undermine the public confidence in the efficacy of law and society could not long endure under such serious threats. It is, therefore the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was committed.

d. The object should be to protect the society and to deter the criminal in achieving the avowed object of law by imposing appropriate sentence. It is expected that the courts would operate the sentencing system so as to impose such sentence which reflects the conscience of the society and the sentencing process has to be stern and proportionate to the prove the guilt of the culprit.

e. Any liberal attitude by imposing meager sentence or taking too sympathetic view merely on account of lapse of time or personal inconveniences in respect of such offences, will be counterproductive in the long run and against societal interest which needs to be cared/strengthened by string of deterrence inbuilt in the sentencing system.
(7) No nation can fight drug trafficking in isolation. Optimum results can be achieved only through international co-operation and universal action for the prevention and suppression of illicit traffic. This in turn should be combined with demand reduction through expanded efforts in dealing honestly and effectively with the problem of drug addiction. Unless, such a strategy is adopted mere effective and tough law enforcement alone will not help to achieve the desired objectives. For this, there should be a close interaction between law enforcement agencies and Non-Governmental organizations (NGOs) involved in the treatment, rehabilitation and social integration of drug addicts. For the control of drug trafficking and drug traffickers, strict enforcement of drug laws in complete coordination of all related departments and with fullest possible co-operation and assistance on regional and international basis will be necessary.

(8) Experience has shown that drug abuse is multifaceted and multidimensional problem which has to be solved within the context. Although no national survey has been made to assess the nature, pattern and magnitude of the drug abuse in various regions of the country, however, the Ministry of Social Welfare has embarked on a set of concerted measures towards awareness building, and the identification, treatment and rehabilitation of drug addicts through voluntary organizations and collective initiative of the people. A network of the voluntary action agencies at large scale should be set up in the country to find out the factors responsible for the addiction so as to restore a drug free life in the society.

(9) Drug Abuse is Psycho-Socio-Medical-problem which needs to be treated in the entirety of the life situations in the addicts. The basic objective in creating facilities for voluntary organizations is to ensure that the support of the family and community through social welfare organizations at the local level is to mobilized to the maximum. The methodology aims at strengthening the family as a unit and seeks to generate co-operation through social workers in motivating addicts to accept detoxification and thereafter maintain a drug free life.

(10) For making drugs free society, the causative factors of drug addiction should be dealt efficiently and effectively, only then this problem of drug abuse can be coped with otherwise this monster will annihilate and gobble up the entire
humanity one day. Every members of the society has to contribute his might in this important crusade of mankind against abuse of drugs. The parents, the teachers, the social workers, the lawyers, the judges, the artists, the literary figure, the men of religion, the legislators, the government officials, enforcement agencies, everybody should take it as his bounden duty to do whatever he can, to prevent drug abuse and drug trafficking.

(11) It is absolutely essential that existing addicts should be persuaded by counseling to undergo treatment. However, the lack of adequate facilities in the country for this purpose greatly hinders the efforts for prevention of Drug Abuse. Therefore there is need to enhance facilities in this field.

(12) Where there is a stringent provision of the penal law, stricter has to be its compliance. The law enforcing agencies and investigating agencies must follow the proper procedure as prescribed under the NDPS Act so that culprits may not be acquitted on non-compliance of mandatory provisions.

(13) It has been observed that only poor people who are using the drug for personal consumption or poor persons engaged as carriers by the Mafia of drug are being prosecuted by the law enforcing agencies. Efforts must be made by the state as well as Central Law enforcing agencies to trace out the origin of the source and real beneficiary of drug abuse money and to prosecute the real offenders of the crime in the effective manner.

(14) There is a strong need to strengthen the efforts to understand patterns and trends of drug use within the country, especially in rural areas falling along the drug trading roots and those close to cultivating areas.

(15) Education must be given paramount importance and the law enforcement agencies and other social organizations should educate people about the harmful effect of drugs.

(16) Parents have to play an important role in imparting education and socialization of their wards by which they should not indulge in drug addiction.
An attempt should be made to evolve the effective control mechanism to check production of drugs and sale thereof in open markets and black markets.

Laws against drug peddling should be made more stringent and people be made aware about such laws. The law enforcement agencies should set up policy programme for proper implementation of such laws.

Need to accelerate the struggle against the scourge of drugs, it is needed to adopt measures to strengthen international cooperation and multi-disciplinary approach to tackle the problem.

There is need to formulate effective strategy against drug abuse, illicit production and trafficking within the state boundaries. Enactments should be passed in accordance with the framework and guidelines provided by international conventions.

There is urgent need to prevent and control the supply of drugs to affluent nations as the bulk of demand for drugs comes from these nations. The efforts should be made on globalized pattern involving the developed nations as the drug peddling is based on consumer-demand-supply theme. If there will be no demand, the drug supply will not be lucrative business and ultimately the drug addiction problem can be coped up with effectively.

There must be proper co-ordination between governmental and non-governmental organizations working in this field. There are also several other professional groups like psychologists, counselors, educators etc. who are directly or indirectly concerned with alcoholism and drug abuse. Among these, teachers have a crucial role to play in the prevention of drug abuse among student groups. Hence, involvement of these professional groups must be increased in prevention of Drug Abuse programmes.

Perhaps the best remedy to contain this evil is to educate people about the harmful effects of drug addiction and consumption of liquor. This kind of education would be most beneficial for the adolescents and school or college going students. The voluntary social organisations and mass media can also usefully import this education. Scientifically correct knowledge and education about evil effects of
intoxication and drug addiction should, in fact, form a part of regular curriculum at the school level.

(24) Early detection of drug addicts and their prompt treatment and their rehabilitation in the society may help to prevent drug addiction to a large extent. The role of social organization in rehabilitating the drug addicts need hardly to be emphasized. The Government of India is providing liberal grants to the State Governments to start drug de addiction centers. As the problem of drug abuse is very acute especially in North Eastern Region, the Government has decided to give 100 percent assistance to these States.

(25) A general awareness program is to be launched which educate the people about the provisions of law, so that the people who are addicted can take the benefit of these. Especially at railway stations, bus stands and crowded public places, pamphlets are to be displayed which highlights the beneficial provisions to the addicts, so that a stream of awareness is to be flashed in the society in this advertised manner.

(26) Crude indicators of future trends in drug use or abuse are available from many sources, including the records of medical practitioners, hospitals, social insurance agencies, school administrators, police, custom authorities and courts. Medical association worldwide should also be urged to cooperate in assembling this information in collaboration with WHO. This information should be taken into account, subject to respect for confidentiality, in the formulation of national policies intended to prevent abuse and reduce demand for the drugs in question.

(27) Drug Medicating and Meditative camps provide a ray of hope in dark world of drug addicts. This is a simple yet pragmatic, costs effective and innovative strategy for the treatment of drug addict. The evolution and success of these camps with the help of community and the co-operations of the volunteers and ex-drug addict is very encouraging. It proves that even one dedicated worker with the help of community can do wonder and make drug abuse a thing of the past.

(28) Unemployment is one of the basic causes of the drug addiction. By creating and providing employment opportunities to youth wherein they could get
themselves involved, channelize their energies in some proper direction and get standing and respect from family and the society, there is less doubt about their getting swayed by drugs. It is either possible by the Government agencies and the nongovernmental organisations through community employment or self-employment programs. Government should adopt policies and programs to provide more and more jobs permit, fair competition and try to reduce corruption and nepotism in appointments in the Government Departments and private sectors.

(29) There is a tremendous need to establish anti-drug police force in each and every state with their units in each district and other vital places like Bus Terminals, Railway Stations, Air Ports and Border Areas. This force should be established on the Chinese model of Anti-Drug Police Force.

(30) Under the NDPS Act over many years severe criticism has brought against effectiveness of the Act. Acquittals under the Act have been one of the highest under any criminal law in the country. In Practical life, we see majority of cases are booked at different places but conviction rate is very low due to irresponsible functioning of the authorities. Though deterrent punishment provisions are contained in the Act but it can’t serve any purpose if conviction is not resulted. In comparison to other criminal cases, conviction rate under the NDPS Act proportionally is very low. Howsoever, deterrent provisions are contained in the Act, if the offenders are not properly prosecuted or convicted, then no punishment can act as deterrent for the persons for the successful implementation of the Act. Conviction rate is to be increased and the lacuna or gap in the prosecution side which results in acquittal needs to be addressed immediately. The same can be done with devising a departmental checklist based on the statutory provisions and judicial guidelines on the subject. Thereafter the personnel of investigating and enforcement agencies should be given dedicated and specialized training about these checklists.

(31) A comprehensive training programme is also required for public prosecutors in respect of various guidelines issued by different courts in the country and the same should be conducted at regular intervals.

(32) It has been observed that accused under NDPS cases are being acquitted where the investigating officers have deliberately rendered the investigation defective.
No doubt, the courts have adopted pro-active approach in appreciation of evidence in such cases but still the investigating agency cannot avoid the responsibility for the poor investigation and where the accused are acquitted due to fault of the investigating officers, the disciplinary/Departmental actions should be taken against such officers as no victim should suffer for the fault of investigating agency.

(33) Besides above, special courts have been set up for speedy trial of offences under NPDS Act in view of Section-36A of the Act. Still there is delay in disposal of these cases and hence, slow motion Criminal trial should be expedited. The Government should made effective steps for establishment of more special courts under the Act and to appoint the judges for these courts as required for early disposal of cases under NDPS Act. In addition to special courts there is need to have a drug counseling and rehabilitation centre at district level for rehabilitating drug addicts and running the awareness programmes.

If these suggestions are implemented, then we can expect that the menace of drug abuse can be controlled to a great extent.