
CANADA / JUDGMENT

R. v. Bhoot

2019 BCSC 2478

COURT

Supreme Court of British Columbia

DECIDED

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2019 BCSC 2478 R. v. Bhoot

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Bhoot,

2019 BCSC 2478

Date: 20190719

Docket: 67357-1

Registry: Chilliwack

Regina

v.

Akashdeep Singh Bhoot

Before: The Honourable Mr. Justice Schultes

Oral Reasons for Sentence

Counsel for the Crown:

R. Randhawa

Counsel for the Accused:

P. Gill

Place and Date of Hearing:

Chilliwack, B.C.

May 10 & July 19, 2019

Place and Date of Judgment:

New Westminster, B.C.

July 19, 2019

Introduction

- [1] Mr. Bhoot has entered guilty pleas to the following offences, all of which were committed in 2017 in Abbotsford: trafficking in fentanyl, heroin, and an analog of fentanyl called 3-methylfentanyl on January 23; separate counts of possession for the purpose of trafficking of (1) cocaine and (2) heroin and fentanyl on January 25; trafficking in fentanyl on February 8; and, once again, separate counts of possession for the purpose of trafficking of (1) cocaine and (2) heroin and fentanyl on April 19.

Circumstances of the Offences

- [2] The evidence in support of these charges arose in the course of an investigation by the Abbotsford Police Department of a dial-a-dope operation that they believed was managed by Sarabjit Mann, with his brother as a participant. Mr. Bhoot was believed to be an associate of theirs. This led to a series of drug purchases by undercover police officers following their calls to a dial-a-dope line, as well as a search of Mr. Bhoot's vehicle pursuant to his arrest, and later execution of a search warrant of his room in his family home.
- [3] The drug sales by Mr. Bhoot personally were on January 23 and February 8 - in each case involving the sale of .4 grams of fentanyl for \$80. On January 25, he was seen by investigators conducting two additional meetings in a car he was driving that in their view resembled drug transactions. As a result, he was arrested by the Emergency Response Team at a traffic stop. He was in possession of 11 rocks of crack cocaine weighing a total of 2.2 grams and seven baggies of a heroin/fentanyl mix weighing .11 grams each. He also had the familiar accompaniments of these kind of trafficking operations: two cellphones, packaging material and baggies, and \$85 in cash.
- [4] Because the investigation of the overall operation was still ongoing, he was released without being charged at that point.
- [5] On April 19, a search warrant on his family home found a number of relevant items in his room: 1.6 grams of a heroin/fentanyl mix, 2.3 grams of fentanyl, and 2.3 grams of crack cocaine; as well as more than \$15,000 in cash in various locations, including in bundles; a scale with powder on it; and packaging material. The total amount of drugs in his possession - in his vehicle, on January 25 and in his room on April 19 - were 1.7 grams of the heroin/fentanyl mixture, 3.2 grams of fentanyl, and 4.5 grams of crack cocaine. The total estimated value of these drugs was \$1,540.

- [6] When he was arrested leaving the home before the warrant was executed, three additional bags of fentanyl, weighing .9 grams each, were found in his pocket.
- [7] There were also two BlackBerrys in the vehicle he was driving on that day. On one of them, the investigators found repeated text messages requesting various amounts of drugs, using well-known terms for the type and quantity of drugs in each request.
- [8] A search of the garbage from the family home on March 10 had found baggies with their corners cut out, which is said to be a frequent practice in the packaging of drugs. These baggies contained trace elements of carfentanyl, fentanyl, and caffeine.
- [9] Not forming the basis of charges, but described by the Crown to show the overall level of his involvement, Mr. Bhoot was also present in the same vehicle when Mr. Mann carried out four other sales of fentanyl to undercover officers in January and February. In addition, he was frequently seen going to Mr. Mann's home to pick him up.

Circumstances of the Offender

- [10] Mr. Bhoot was 19 years old at the time of these offences. He is now 22. He has no previous criminal record.
- [11] A presentence report did not disclose any dysfunction or abuse during his upbringing, nor is there any indication of psychological or emotional disturbances or learning disabilities. Notably in light of the nature of these offences, the presentence report indicated that he does not have any discernible substance abuse problems, either. This is not put forward as a case in which addiction is a mitigating factor. It is frankly conceded by his counsel that the motivation was profit.
- [12] He served the equivalent of 86 days of presentence custody before he achieved his release.
- [13] Mr. Bhoot continues to live at home and his family is very supportive of him. His mother and his cousin attended the sentencing hearing. His mother, who works two jobs, acted as a surety in the substantial amount that allowed for his release on bail, which she was able to do only because of the increase in the value of the family home over time. His counsel advised that she would not have permitted him to remain in the home if he had not complied with his conditions. His father suffers from a disability and does not play a prominent role in his life, unfortunately. His counsel advises that his family had no idea what he was doing at the time of these offences and were mortified when they found out.
- [14] His bail conditions have been extremely strict, including curfew that amounted to house arrest, with exceptions only for travelling to and from work, court, or to medical emergencies. His bail supervisor was unwilling to grant him any of the discretionary exemptions that are permitted under it for compelling reasons. Those conditions had been in place for 23 months at the time of the sentencing hearing and have been in place for approximately 25 months as of today.

- [15] Although he has a relative that operates a tile business, it did not turn out to be viable for Mr. Bhoot to pursue employment in that area because of the bail restrictions. However, that offer of employment remains open to him once he is released from custody following this sentence. He told the probation officer who prepared the presentence report that he would like to take trades training.
- [16] The police have monitored his compliance very strictly, as well. The only allegation of non-compliance was a breach charge resulting from his failure to present himself at the door to the police as the order requires. He was acquitted on the basis that he had actually been in the back yard with his dog at the time, which the officers failed to check before charging the breach.
- [17] This lengthy period of strict conditions on his release has effectively prevented him from obtaining employment or engaging in a normal range of activities. His counsel submits that his life has essentially "stalled" and he is in need of direction, guidance, and mentoring. He also describes Mr. Bhoot as having somewhat of a flat affect in how he expresses himself, and that he experiences difficulty in articulating what he wishes to say. This limitation extends to his communications with his own family.
- [18] While it is not suggested that he was unaware of the presence of fentanyl in the substances he possessed and sold (and his counsel candidly concedes that that would not be a mitigating factor, in any event), he still had very limited insight in how horrific and deadly that substance is, as his counsel put it. The sentencing has been an education for him in that regard. His counsel describes him as remorseful, and as now recognizing the situation he is in.
- [19] In his own statement in court, Mr. Bhoot expressed similar sentiments about what he has learned about the dangerousness of fentanyl since committing these offences and expressed his apology for his participation in trafficking in it.
- [20] His counsel advises that he committed these offences during a time in which he was associating with people who had an extremely negative influence on him, which I took to include Mr. Mann and his brother. He has been able to divorce himself from that lifestyle, assisted by the limitations imposed by the bail conditions.
- [21] As to the timing of the guilty pleas, they were entered in November of last year, with notice several months before that that would be the outcome. The subsequent gap to the actual sentencing hearing in May was due to scheduling issues.
- [22] His counsel explains that it was necessary to have a preliminary inquiry, after which, Mr. Bhoot was discharged on three of the counts, in order to confirm that the percentages of fentanyl in the drugs seized was within the "normal range" in these matters.

Positions

- [23] The Crown seeks a three-year sentence of imprisonment for Mr. Bhoot, as well as the usual ancillary orders of a firearms prohibition, DNA samples, and forfeiture of the seized items.
- [24] Crown counsel provided additional sentencing material, in the form of reports from the coroner and a medical expert in pharmacology and substance abuse, a bulletin from the Canada Centre on Substance Abuse, and a media report. They all describe vividly the public health crisis that has been created by the increasing availability of fentanyl to illicit drug users with the danger of unintentional overdoses being caused by (1) its unexpected presence in drugs that are purchased and (2) its unexpected and unpredictable potency in its own right. This is a Canada-wide problem, but the situation in British Columbia is particularly acute. Not surprisingly, that situation has led courts to stress the importance of deterrence and denunciation when sentencing for trafficking or possession for the purpose of trafficking of such a dangerous substance.
- [25] The leading decision is *R. v. Smith*, 2017 BCCA 112. It endorsed a sentencing range for street-level dealing in fentanyl, beginning at 18 months and which might exceed 36 months. The Court stressed that the range needed to be materially higher than for dealing in other dangerous drugs such as heroin, because of the enhanced risks associated with dealing in fentanyl and the individual responsibility of dealers, given those risks and the public knowledge of them. On the particular facts of that case, the majority declined to interfere with a sentence of six months that had been imposed at trial however, because of the lower level of awareness of the extent of fentanyl's dangerousness in 2015, the time the offender engaged in his trafficking. A fit sentence would have been higher had the acts been committed more recently, the majority said.
- [26] The sentencing judge in *R. v. Tom*, 2018 BCPC 87, referred to fentanyl as "a scourge". She sentenced the offender, an addicted Indigenous person whose substantial record consisted largely of breaches and who had pleaded guilty, to 18 months for a single sale to an undercover officer.
- [27] In *R. v. Kirton*, 2018 BCPC 11, the offender had been seen making 25 stops in his vehicle over two days, which appeared to represent dial-a-dope drug sales. He was arrested and had 29 packages of drugs in his vehicle - 20 of crack and nine of heroin and fentanyl - as well as over \$700 in cash and several weapons, although not firearms.
- [28] He was 27, had no previous criminal record, and had pleaded guilty. He was supporting his 18-month-old child. His father, who was Métis, suffered from substance abuse and the sentencing judge recognized a relevant link to that abuse and its effects on the offender in "the historical mistreatment of our Aboriginal communities in Canada", as he put it. The offender himself used cocaine recreationally, but had not followed up with a counselling appointment for substance abuse. He had a grade 10 education and had worked as a concrete finisher since then. He provided letters of reference attesting to his good character.

- [29] While the sentencing judge noted the positive factors, the judge was unable to conclude that the offender fell within the exceptional category who "had completely changed his life". Noting the aggravating factors of the presence of fentanyl, the number of transactions, the presence of weapons, and the profit motive, the judge imposed a sentence of two years less a day.
- [30] Crown counsel fairly acknowledges the mitigating factors in Mr. Bhoot's case: his lack of a criminal record and his guilty pleas. Crown counsel also fairly acknowledges that he is not in a position to prove that the drugs sold or possessed by Mr. Bhoot were necessarily lethal in their individually packaged amounts, in terms of the concentration of fentanyl in them. The only certificate of analysis in this case that includes a qualitative analysis of fentanyl was with respect to the January 23 transaction. It places that substance in the expected range of .01 percent.
- [31] On the aggravating side, Crown counsel points to the presence of fentanyl as one of the trafficked drugs; the presence of the profit motive, with about \$15,000 in proceeds being found; the length of time over which Mr. Bhoot's activities continued; and the fact that they continued after he had been arrested in January and drugs had been seized from him.
- [32] When situating Mr. Bhoot within the range of sentence, the Crown noted that his sentence should be placed below those imposed on Mr. Mann and his brother for their involvement in this matter. Their appeals from four-year sentences for trafficking in fentanyl (Sarabjit Mann also received five years concurrent for trafficking in carfentanyl, an even more potent related substance, and three years consecutive for a firearms offence in which a threat had been made) were dismissed, at 2018 BCCA 265. In contrast to what Mr. Bhoot possessed, they had used such crude methods to mix the drugs that contained fentanyl that so-called "hot spots", containing a dangerously greater concentration of drugs, were left in the packages sold, making them even more potentially lethal than the normal mixture.
- [33] Mr. Bhoot's counsel, in admirably focused submissions, did not dispute the legal principles or range of sentence set out by the Crown. He submits that Mr. Bhoot falls in the mid-range of the Smith framework. All of the evidence and items seized are consistent with street-level dealing. There are none of the indicators of a greater role such as drugs in bulk, mixing equipment, or scoresheets. Rather, he described Mr. Bhoot's role as taking phone calls and selling \$80 packages.
- [34] The highly dangerous preparation of the drugs as well as the presence of an even more lethal drug and the possession of a loaded firearm in the context of uttering threats are the aggravating factors that set the Mann offenders apart. While Mr. Bhoot certainly knew them and engaged in trafficking activity with them, his counsel submits that they operated at a discernibly higher level. Even if, as Crown suggested, inferences could be drawn about some connection between the drugs possessed by Mr. Bhoot and those by the Manns, there is no evidence of any higher percentage of fentanyl in what Mr. Bhoot possessed and sold.

- [35] His counsel concedes that this trafficking was pursued for profit, but submits that that consideration as well as the aggravating presence of fentanyl are already "baked into" the Smith range, as well as the dial-a-dope context, as aggravating factors.
- [36] Looking at the Crown's authorities, counsel notes that the offender in Tom received an 18-month sentence despite an extensive record, although he had the mitigating factor of addiction. Kirton involved comparable amounts of drugs to our case, although a very large number of transactions were observed by the police.
- [37] Mr. Bhoot's counsel also reviewed the additional cases that the Crown provided, but did not specifically refer to in submissions. These cases illustrate the treatment of other low-level traffickers in light of the Smith range.
- [38] R. v. Henry, 2017 BCSC 1627, involved guilty pleas to possession of marihuana, cocaine, and fentanyl, which had been found following a stop and arrest of the offender on his bicycle. Counsel notes that the overall amount of drugs are similar to what Mr. Bhoot possessed.
- [39] The offender was 23 years old, had a youth record, but was treated as a first offender for adult sentencing purposes. He suffered from a serious drug addiction and had become suicidal several times because of its effects on him. He was beaten with a baseball bat following his efforts to extract himself from the drug lifestyle. Unlike Mr. Bhoot, he did poorly on bail. By the time of sentencing, this offender understood that in effect he had been selling "death," as he put it.
- [40] Concluding that the Smith range was not a fit one because the offences had been committed in 2015, before the increased public awareness of the harmfulness of fentanyl, and that rehabilitation remained a relevant consideration despite the necessary emphasis on deterrence and denunciation, the judge imposed an effective sentence of 12 months.
- [41] R. v. Grewal, 2017 BCPC 412, involved possession of a significantly larger quantity of drugs than are involved here, which were uncovered during a search of the vehicle arising from a single incident. The offender had no previous record, was the same age as Mr. Bhoot, and had pleaded guilty. He received an 18-month sentence.
- [42] In R. v. Creuzot, 2017 BCSC 1075, the offender pleaded guilty to possession of three different drugs for the purpose of trafficking. Fentanyl was not one of them, but trace elements of it were found in what was seized and its involvement was alleged as part of the circumstances. The same search that yielded the drugs found prohibited devices and weapons, which were also the subject of pleas to separate counts.
- [43] The offender had tragic circumstances. He was 51, had a history of addiction, a disability that prevented him from ever working, and multiple sclerosis. On the aggravating side, he had an extensive related record, although he had not received a sentence longer than three months before. What was described as a "global sentence" of 14 months' imprisonment was imposed.

- [44] Finally in terms of applicable authorities, Mr. Bhoot's counsel referred to the decision of the Court of Appeal in *R. v. Nghiem*, 2009 BCCA 170, in which the Court held that time spent under onerous bail conditions can be a relevant factor on sentence, but that it:
- [16] is not to be considered by way of application of some mathematical formula to reduce the length of sentence. Instead, a court should concern itself with the degree to which objectives of sentencing may have already been accomplished through the imposition of strict bail conditions. While such conditions are not intended to be penal, they can nonetheless incidentally serve to further the goals of rehabilitation, deterrence and denunciation.
- [45] In this case, it is submitted that the restrictions on Mr. Bhoot's ability to lead a normal life while under those conditions have achieved specific deterrence, to a significant degree. While Mr. Bhoot is by no means looking forward to incarceration, his counsel advises that he wants to get his life going again and so is looking forward to opportunities that can be provided in that setting, in particular work experience and counselling.
- [46] Given that he fits within the Smith range at a point where a federal sentence could be considered, his counsel expressed the view, which he reiterated today, that Mr. Bhoot would benefit from such a sentence because it would be better suited to his needs in terms of the programming available. However, counsel did not object to my suggestion that we obtain a presentence report, so that the respective programs in the federal and provincial systems could be canvassed. We have now received that report.

Pre-Sentence Report

- [47] I will deal first with the probation officer's description of provincial programs at page 5. I begin with the following quote:

The British Columbia Corrections Branch offers several programs in the community and custody centres; however, Mr. Bhoot would not be suitable to complete the Respectful Relationships program, the Living Without Violence program, or the Substance Abuse Management program.

- [48] I pause to say that this is not a case that involves violence or relationship difficulties, nor is there any indication of a substance abuse problem. So that assertion from the probation officer makes perfect sense to me. Continuing with the quote:

The British Columbia Corrections Branch offers the Essential Skills to Success modules in custody and in the community. ESS is an inventory of modules reinforcing employability and life skills development while enhancing response to behavioural change programs and supporting pro-social engagement in custody and in the community. ESS module topics include but are not limited to the following: healthy relationships, employability, substance abuse skills and living skills. These modules range in length from 90 minutes to three hours.

- [49] Skipping down to the third paragraph:

If supervised on a community supervision order, Mr. Bhoot can be directed to complete programs in the community through the WorkBC Employment Services Centre or Triangle Community Resources. Mr. Bhoot can be directed to the WorkBC Employment Services Centre to access job search resources, employment planning, skills assessment and various training programs. Triangle Community Resources offers the Reaching Independence Through Employment program which is a ten-week comprehensive job-readiness training program. Participants receive six weeks of group facilitated job readiness training and the remaining four weeks participants develop individualized personal plans. Triangle Community Resources also offers an Understanding Anger program.

Which, for the reasons I have already identified, would not be a suitable resource.

[50] With respect to the federal resources, the probation officer says the following:

Should Mr. Bhoot be sentenced to a federal custodial term, he would be assessed at the Regional Reception Centre for ninety days and then classified in terms of security, needs and other factors. A correctional plan will be developed and he would receive a penitentiary placement best suited to address his criminogenic needs. Since 2010, programming available in the federal system is based on the Integrated Correctional Program Model ... The nature of this Multi-Target Program allows for a holistic approach to enhance offenders understanding of the interplay amongst their multiple risk factors, as well as their understanding of how the same skill sets can be used to effectively manage them. ICPM programs are delivered in conjunction with risk levels and based on research regarding effective dosage. For example high intensity programs consist of one hundred two hour group sessions while moderate intensity programs consist of fifty two hour sessions. Along with the framework of programming there are also program primers (ten structured sessions) for offenders serving fewer than four years, extended primer (fifteen 15 sessions), and motivation module and maintenance programs. There is also a community maintenance program designed to further enhance self-management skills during conditional release. There are also some psychiatric/psychological services available, mostly during risk assessment at intake and pre-release.

Discussion

[51] I agree with Mr. Bhoot's counsel that the involvement of fentanyl as an aggravating factor is already the reason that the range provided by Smith is higher than for offenders who traffic in other serious drugs, so it should not be double-counted in the analysis. It is also assumed in the usual dial-a-dope case that the activity was carried out for profit, subject to a demonstration that some other factor such as addiction or mental illness played a role. The circumstances in which it is fueled by an addiction will be a mitigating deviation from that assumption. I also agree that both the level of proven involvement and the purity and dangerousness of the fentanyl he possessed are meaningfully different than the factors that drove the higher sentences in Mann, which the Crown fairly conceded in his own submissions. The possession of carfentanyl and the use of a firearm in that case are entirely absent here. Those sentences are not a comparable benchmark for Mr. Bhoot within the

Smith range.

- [52] I am satisfied that the evidence shows Mr. Bhoot to have been a street-level trafficker during the period in question, possessing the amounts and types of drugs typically found in that pursuit, as well as the related cash, packaging, and equipment needed to carry it out. In my opinion, the most important aggravating factors here are the length of time over which Mr. Bhoot's trafficking persisted and the number of incidents in which he sold or was found in possession of these substances. The examination of his garbage leads to an inference that the kind of items that were found in his home during the search were present as early as March 10. The amount of cash he possessed, which can only have been the proceeds of trafficking, is fairly large as these matters go and aggravates the circumstances as well.
- [53] The other incidents in which he was present with Sarabjit Mann during trafficking activities are relevant to provide context for his activities showing that he was an ongoing part of that milieu, but are not to be treated as additional offences for sentencing purposes. Indeed, the Crown does not suggest otherwise.
- [54] The mitigating factors are his guilty plea, which I am satisfied was entered as soon as his counsel had sufficiently tested the evidence against him, his youth and lack of previous record, his strong family support, and the increased understanding he has developed of the dangerous effects of trafficking in fentanyl.
- [55] While remorse and a determination to change one's conduct that underlies it are ultimately best demonstrated by concrete steps towards rehabilitation, which he has not really had a chance to pursue yet, I accept that he is sincere in his expressions of regret for the harm he has caused. He also expresses a receptive attitude towards rehabilitative supports - to the extent of conveying through his counsel a request for a more onerous type of sentence than might otherwise be imposed.
- [56] He also complied with the very restricted bail conditions without any proven breaches.
- [57] It seems to be the consensus that addiction does not underlie his participation in these offences, so that potential mitigating factor is not available to him.
- [58] I accept that the lengthy duration of the onerous bail conditions means to a significant degree the objectives of specific deterrence of him have already been met before the imposition of sentence is imposed. That is not an objective of sentencing that requires further significant emphasis by me.
- [59] There is very little that can be said about the harm caused by trafficking of fentanyl in the community, and the resulting need to emphasize deterrence and denunciation in the sentences imposed, that has not already been eloquently and forcefully set out in the authorities. Suffice it to say that courts must do all they can to express society's collective condemnation of its distribution and send the message that those who do so, now knowing its lethal effects, can expect to be dealt with severely. As I have said, I think essentially being deprived of his freedom for 25 months already has made that point to Mr. Bhoot personally

in a significant way.

- [60] When situating an offender within the Smith range, it is also important to keep in mind their prospects of rehabilitation. A 22-year-old man with a strong family support, no previous record, and a receptive attitude towards counselling has the potential for rehabilitation that should not be extinguished by too lengthy a sentence. There comes a point after which giving deterrence and denunciation their due could actually cripple those positive prospects.
- [61] Proportionality requires that the sentence reflect the seriousness of multiple incidents of selling and possessing drugs of this nature over several months and the moral blameworthiness of Mr. Bhoot is increased, beyond the already high level that attaches to repeated trafficking in dangerous drugs, by the additional knowledge of, or at least wilful blindness to, the increased risks that fentanyl poses to the community.
- [62] In terms of parity with comparable offences and offenders, the decisions in which 18 months or less was imposed reflect the pre-Smith range or single incidents of possession or sales by offenders with sympathetic personal factors. I would not really characterize Creuzot as a fentanyl case, in terms of the actual role played by that drug in the charges. The Kirton decision is comparable in the repeated incidents of trafficking, although over a more compressed period, as well as the lack of a previous record and the amount of drugs possessed, but that offender's troubled upbringing was counterbalanced by the aggravating factor of the presence of weapons along with the drugs, and he did not have Mr. Bhoot's onerous pretrial bail conditions to lessen the need for specific deterrence.
- [63] Balancing the aggravating and mitigating factors and the applicable sentencing principles, including my finding that more than two years of house arrest has addressed the need for specific deterrence, I am hard put to find that a federal sentence would be a fit one, despite the considerable weight I attach to submissions of Mr. Bhoot's counsel.
- [64] It is true that when a federal sentence is in the range under consideration, a court is permitted, on a principled basis, to impose such a sentence if the offender seeks the programs that are available in it. But there are strong countervailing considerations here, in my opinion. In addition to the effect of the mitigating factors I have identified, there is the strong principle that when sentencing youthful first-time offenders, courts should give consideration to a reformatory term. In addition, the information in the presentence report is not particularly informative, and far from conclusive, on the superiority of federal programs to suit Mr. Bhoot's particular needs, which seem to me to focus on understanding the need to adopt prosocial behaviour and escape the pernicious influence of a certain type of drug-dealing community in the Abbotsford area. Even if the federal programs are somewhat more beneficial, which they may well be, I am not convinced that in themselves they justify placing him in a correctional setting with unquestionably more serious and experienced offenders. That is a recognized consideration when preferring reformatory sentences for first-time youthful offenders.

- [65] Therefore, in the absence of presentence custody, I would have sentenced Mr. Bhoot to a sentence of imprisonment for 21 months, to be served concurrently on all counts. Applying credit for presentence custody, I now sentence him to a term of 18 months and four days concurrently on each count.
- [66] I also place him on probation for a period of 18 months.
- [67] The compulsory conditions are that he will keep the peace and be of good behaviour, appear before the court when required to do so by the court, and notify the court or the probation officer in advance of any change of name or address, and promptly notify the court or the probation officer of any change of employment or occupation.
- [68] The optional conditions are that he will report within 72 hours of his release from custody to a probation officer and thereafter as directed.
- [69] He will attend for and successfully complete to the satisfaction of the probation officer, any counselling or vocational training directed by the probation officer.
- [70] He will seek and maintain employment or attend school or vocational training regularly and provide the probation officer with whatever information or access they require to confirm his compliance with this condition.
- [71] He will perform 50 hours of community work service within the first six months of the probation. This is a way of giving back to the community from which Mr. Bhoot has taken through his involvement in this dangerous activity.
- [72] He will have no contact directly or indirectly with Sarabjit or Karan-Jit Mann.
- [73] Pursuant to s. 109(2) of the Criminal Code, he is prohibited from possessing any of the items in s-s (a) for 10 years following his release from custody, and the items in s-s (b) for life.
- [74] This is a secondary designated offence and, pursuant to s. 487.051(2) of the Code, I exercise my discretion to order that he provide the number of samples of bodily substances that are reasonably required for the purposes of forensic DNA analysis.
- [75] Finally, the items seized from him during the search of his vehicles and residence will be forfeited, in accordance with the terms of an order that will be prepared by the Crown.
- [76] Mr. Randhawa, do you have such an order or do you want to submit --
- [77] MR. RANDHAWA: Not prepared yet, but Crown will do so.
- [78] THE COURT: You can submit it for my signature.
- [79] MR. RANDHAWA: So, Your Lordship, just to clarify --
- [80] THE COURT: Yes.
- [81] MR. RANDHAWA: -- so it is essentially a sentence of 21 months' jail minus credit --

[82] THE COURT: Yes.

[83] MR. RANDHAWA: -- for 86 months balancing --

[84] THE COURT: So it is 18 months and four days.

[85] MR. RANDHAWA: Thank you, My Lord.

[86] THE COURT: Thank you all very much. Good luck, Mr. Bhoot.

[87] THE ACCUSED: Thank you.

"Schultes J."

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