

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Crl. Revision 1756 of 2007
Date of Decision : May 26, 2016

Kesar Singh

.....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN

Present : Mr. Satbir Gill, Advocate

Mr. Dhruv Dayal, Deputy A.G., Haryana

T.P.S. MANN, J. (Oral)

The petitioner was booked and tried for committing the offence punishable under Section 25 of the Arms Act. Vide judgment and order dated 26/27.10.2005, learned Judicial Magistrate 1st Class, Dabwali convicted him for the aforementioned offence and sentenced him to undergo rigorous imprisonment for three years and to pay a fine of Rs. 500/- and in default of payment of fine, to undergo simple imprisonment for fifteen days.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal. Vide judgment dated 4.9.2007, learned Sessions Judge, Sirsa upheld the conviction of the petitioner under Section 25 of the Arms Act. However, his

sentence of imprisonment was reduced from three years to rigorous imprisonment for one year. The sentence of fine alongwith its default clause was maintained. Hence, the present revision in which he is currently on bail pursuant to order dated 29.10.2007 passed by this Court.

The case of the prosecution, in nutshell, is that on 18.11.2002, SI Rajbir Singh alongwith his fellow officials was present at canal bridge of village Chatha for investigation in connection with FIR No. 207 dated 18.11.2002 under Sections 15 and 16 of the Narcotic Drugs and Psychotropic Substances Act. The personal search of the petitioner was effected which led to recovery of .32 bore pistol loaded with one live cartridge and one missed cartridge of the same bore. The petitioner could not produce any licence or permit to keep the pistol. Accordingly, he committed the offence under Section 25 of the Arms Act.

After hearing learned counsel for the parties, this Court finds that PW1 Krishan Kumar, Reader to District Magistrate, Sirsa proved the sanction order Ex. PW1/A. SI Rajbir Singh, who appeared before the trial Court as PW4 testified that while conducting the personal search of the petitioner during investigation of the case under Sections 15 and 16 of the NDPS Act, he had recovered .32 bore pistol which was loaded with one live cartridge besides a missed cartridge. The testimony of PW4 SI Rajbir Singh is corroborated by PW2 ASI Ranjit Singh, who

proved the recovery of the pistol and the cartridges. As per the report of the Forensic Science Laboratory, the pistol was found fit for firing. Under these circumstances, no case is made out for any interference in the conviction of the petitioner.

The petitioner is facing the agony of criminal prosecution for the last about fourteen years. The case under the provisions of the NDPS Act against the petitioner ended with his acquittal on 1.4.2004. He claims to be a labourer by profession and looking after his family consisting of three daughters and one son. His mother is also residing with him whereas his father is no more. As per the custody certificate produced by learned State counsel, the petitioner has already undergone total sentence of nine months and four days out of the sentence of one year imposed upon him. He is also not shown to be convicted in any other case.

Taking into consideration the totality of the circumstances, this Court is of the view that adequate and special reasons are there to impose a sentence of imprisonment for a term of less than one year.

Resultantly, the conviction of the petitioner under Section 25 of the Arms Act is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him. The fine of Rs. 500/- is, however, enhanced to Rs. 2500/-. The fine amount be deposited by the petitioner with the trial Court

within three months from today, failing which he shall undergo simple imprisonment for one month.

Except for the modification in the quantum of sentence of imprisonment and fine, as indicated above, the revision fails and is, therefore, dismissed.

May 26, 2016
ajay-1

(T.P.S. MANN)
JUDGE