

**IN THE HIGH COURT FOR THE STATES OF PUNJAB &
HARYANA AT CHANDIGARH.**

Crl. Rev. No.3177-2015

Date of decision: April 12, 2016

Dalbir Singh @ Dalbira

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Veneet Sharma, Advocate for the petitioner.

Ms. Rajni Gupta, Addl. Advocate General, Punjab.

Rajan Gupta, J.

This is a revision petition preferred by the petitioner against his conviction and sentence under Section 61(1) (A) of the Punjab Excise Act.

Briefly stated, case of the prosecution is that on 19.10.2008, Head Constable Gurjit Singh alongwith other police officials was on patrolling duty. When he reached near Gurudwara Tung Pal, Amritsar, a person (petitioner herein) was seen sitting on a wall with a plastic can. He was apprehended. On enquiry, he disclosed his name as Dalbir Singh son of Satpal Singh. On checking, 56250 ml illicit liquor was recovered from him. Sample was taken and the case property was sealed by Head Constable Gurjit Singh. On completion of other formalities of investigation, challan was submitted in the competent court of jurisdiction.

Prosecution examined as many as four witnesses. The accused/petitioner, however, did not produce any witness in his defence.

The learned trial court after appraising the evidence, convicted and sentenced the accused/petitioner under Section 61 (1) (A) of the Punjab Excise Act. He was sentenced to undergo imprisonment for a period of six months and to pay a fine of Rs.1000/-. Petitioner preferred appeal against the judgment of his conviction/sentence, which was dismissed by Addl. Sessions Judge, Amritsar, vide judgment dated 13.8.2015. Feeling aggrieved against the judgments of both the courts below, the appellant approached this court through the instant revision petition.

Learned counsel for the petitioner has submitted that the petitioner has already undergone a protracted trial of more than eight years. The petitioner is first offender. Even though there may be a minimum sentence of six months for the offence committed by him, it is too well settled that even in such matters, where the minimum sentence is prescribed, the offender can be let off on probation. In support of his aforesaid contention, learned counsel has relied upon the Full Bench judgment of this Court in ***Joginder Singh v. State of Punjab, 1980 Crl. L.J. 1218***, which was followed by this Court in ***Baldev Singh v. State of Haryana, 1985 (1) (Crl.) 36***.

Learned counsel for the State has submitted that the recovery is of huge quantity and, therefore, the petitioner does not deserve the benefit of Probation of Offenders Act.

I have heard learned counsel for the parties.

After perusing the judgments of the courts below as well as the evidence on record, I am of the considered view that the finding of conviction has been correctly rendered against the accused/petitioner. However, taking into account totality of circumstances, I am of the considered opinion that the petitioner can be granted benefit under the provisions of the Probation of Offenders Act. He is stated to be the first offender. As mentioned above, he has already undergone protracted trial of more than eight years. Therefore, I deem it appropriate to extend the benefit of Probation of Offenders Act to the petitioner on his furnishing bonds in the sum of Rs.50,000/- and to keep peace and be of good behaviour for a period of two years under Section 4 of the Probation of Offenders Act, 1958.

The petitioner shall furnish the bonds within one month from the date of receipt of certified copy of this order.

The revision stands disposed of accordingly.

(RAJAN GUPTA)
JUDGE

April 12, 2016
'Rajpal'

Referred to the Reporter ? **Yes**