

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

**CRM No.17064 of 2016 in/and
CRR No.3425 of 2015 (O&M)
Date of Decision: November 11, 2016**

Surjit Singh alias Chaina

...Petitioner

VERSUS

The Deputy Superintendent, Modern Central Sudhar Ghar, Faridkot and
another

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.H.S.Bhullar, Advocate
for the petitioner.

Mr.D.S.Virk, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

CRM No.17064 of 2016

The applicant-petitioner has filed this application under Section 427 read with Section 482 Cr.P.C. for directing the sentence imposed in the present case to run concurrently with the sentence imposed upon him in case FIR No.81 dated 28.04.2004 under Section 15 (c) read with Section 25 of the NDPS Act, registered at Police Station Dharamkot.

Heard.

The application is allowed. The sentenced imposed in the present case i.e. in complaint case under Section 9 of the Good Conduct

Prisoners (Temporary Release) Act, 1962 is ordered to run concurrently

with the sentence imposed in case FIR No.81 dated 28.04.2004 under Section 15 (c) read with Section 25 of the NDPS Act.

CRR No.3425 of 2015

The present revision has been filed by the petitioner Surjit Singh alias Chaina against respondents Deputy Superintendent, Modern Central Sudhar Ghar, Faridkot and State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 02.08.2014 passed by learned Chief Judicial Magistrate, Faridkot, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of two years under Section 9 of the Punjab Good Conduct of Prisoners (Temporary Release) Act, 1962 and also challenging the judgment dated 02.07.2015 passed by learned Addl. Sessions Judge, Faridkot, vide which appeal filed by petitioner was dismissed.

Notice of motion was issued only qua quantum of sentence. Learned State counsel appeared and contested the petition.

From the record, I find that a complaint was filed by the Deputy Superintendent, Modern Central Sudhar Ghar, Faridkot against the petitioner under Section 9 of the Good Conduct Prisoners (Temporary Release) Act, 1962. The brief averments of the complaint as noted down in the judgment passed by learned CJM, Faridkot, are as under:-

“2. Brief facts of the complaint are that the accused Surjit Singh @ Chaina was sentenced to undergo imprisonment for ten years and to pay a fine of Rs.1,00,000/- and in default of payment of fine to undergo further rigorous imprisonment for two months under Section 15(c) of the NDPS Act in case FIR No.81 dated 28.04.2004. He was released on bail on 08.07.2009 for availing four weeks parole on receipt of order from District Magistrate, Moga vide order No.1146 dated

08.07.2009. He was directed to surrender in the jail on 06.08.2009. Form 'H' was given to him wherein the date of surrender was mentioned as 06.08.2009. But the accused did not surrender in the jail on the said date, rather he was admitted in the jail on 08.07.2013 through police custody. Thus, he remained absconded from parole from 1432 days and had violated the provisions of Section 8(2) of the Punjab Good Conduct Prisoners (Temporary Release) Act 1962 and he is liable to be punished."

Learned CJM, Faridkot after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Faridkot, vide judgment dated 02.07.2015.

Aggrieved from the above-said judgments, present revision petition has been filed.

At the time of arguments, learned counsel for the petitioner did not dispute the concurrent findings given by the Court below regarding conviction and only prayed for lenient view.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Since, the findings of conviction returned by the Courts below have not been disputed by learned counsel for the petitioner, therefore, the judgment of conviction dated 02.08.2014 passed by learned CJM, Faridkot, is upheld.

So far as, the sentence part is concerned, the petitioner has not undergone any sentence in this case till today. However, vide order of even date, while deciding the application for concurrence of sentence, this Court has ordered that sentence of petitioner passed in this case shall run concurrently with the sentence passed in FIR No.81 dated 28.04.2004 as

detailed above, therefore, after passing of that order, the petitioner is treated to be undergoing sentence in this case also.

As per the custody certificate, the petitioner has already undergone imprisonment of 8 years and 18 days in case FIR No.81 dated 28.04.2004. The appeal of the petitioner in this case has been dismissed by learned lower Appellate Court on 02.07.2015 and since then, he is in custody.

The prayer of learned counsel for the petitioner for taking a lenient view is accepted by this Court and sentence of petitioner is reduced to the sentence already undergone by him in this case.

Resultantly, the present revision petition stands partly allowed.

Petitioner Surjit Singh @ Chaina, who is in custody, be set at liberty forthwith in this case, if his custody is not required in connection with any other case, subject to payment of fine, if already not paid.

November 11, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No