

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

CRR No.3422 of 2016

Date of Decision: November 16, 2016

Rajiv Joshi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

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

Mr. Gurveer Sidhu, Punjab.

FATEH DEEP SINGH, J.

The present petitioner Rajiv Joshi faced with the ignominy of his conviction by the Court of learned Judicial Magistrate 1st Class, Dera Bassi through judgment dated 5.12.2013 in case FIR No.07 dated 15.1.2011 under Sections 61/1/14 of Punjab Excise Act registered at Police Station, Lalru whereby, he was sentenced to undergo rigorous imprisonment for six months and to pay fine of Rs.10,000/-and his subsequent assailment to this impugned findings having met with no relief when the Court of learned Additional Sessions Judge, SAS Nagar, Mohali through judgment dated 02.08.2016 had dismissed his appeal has come up in this revision petition.

After hearing learned counsel for the parties and perusing the records of the case. It is well elicited that on 15.01.2011, a Police Party while on routine checking duty near ITI Chowk, Lalru came

across with Maruti car bearing registration No.CH-03-X-6896 which was being driven by accused and on search of the car 25 boxes (300 bottles) of whisky make *Rasila Santra* for which the accused could not produced any licence or authorisation leading to his prosecution.

At the trial, prosecution examined PW1 Mohammad Azad; PW2 ASI Satnam Singh; PW3 HC Rajesh Chauhan; PW4 HC Subash Chand and PW5 HC Surjit Singh. The accused denied the allegations but did not lead any evidence in defence, thus, leading to his conviction.

Learned counsel for the petitioner at the very onset of his submissions has sought to make a humble prayer that the petitioner has already undergone almost 04 months of sentence which has not been disputed by the learned State counsel and, thus, prayed for showing leniency in reducing the sentence of the petitioner to the sentence already undergone by him as the petitioner has already undergone more than half of the sentence awarded.

Though, learned State counsel has opposed the prayer of the petitioner side but could not bring to the notice of the Court any reasons for denying such a prayer or any previous criminal cases against the petitioner which could be a deterrent to allow such a relief. The petitioner admittedly is a young man, married with a family to support and has been found to be in illegal possession of country made liquor and has no previous history nor it is the case of the prosecution that he is carrying on such a nefarious trade. The petitioner is facing trial since more than 05 years and sword of damocles has been hanging on his head throughout and must have an adverse effect on him as well as on his family. Having regard to the

nature of recovery, the family antecedents, age of the petitioner and the fact that the petitioner has no previous criminal record and has already undergone more than half of the sentence awarded and has already burdened with fine of Rs.10,000/-, thus, it would subserve the ends of justice, if sentence of the petitioner is reduced to that of already undergone by him. However, sentence of fine shall remain unchanged.

In the light of the same the present petition is allowed on those terms. Thus, modifying the impugned judgment. The petitioner be released immediately, if he is not required in any other case.

Records of the trial Court be sent back.

(FATEH DEEP SINGH)
JUDGE

November 16, 2016

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No