

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

CRA-S No.1761-SB of 2004 (O&M)

Date of decision: 16.11.2017

Jatinder Jain @ Sonu

....Appellant

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sunil Chadha, Sr. Advocate
with Mr. M.S. Atwal, Advocate for the appellant.

Mr. Ajay Pal Singh, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

The present appeal has been filed against the judgment dated 20.08.2004 passed by the Additional Sessions Judge (Ad hoc) Fast-track Court, Ludhiana convicting the appellant in FIR No.46 dated 23.02.2002 under Section 25 of the Arms Act (in short 'the Act') registered at Police Station Focal Point, Ludhiana and sentenced him to undergo rigorous imprisonment for a period of 06 months and to pay a fine of Rs.500/- and in default of payment of fine to further undergo rigorous imprisonment for a period of 01 month.

Brief facts of the case are that on 23.02.2002, the police party received a secret information that the appellant along with his co-accused were sitting near a water tank and are armed with deadly weapon and are preparing to commit a dacoity. The police sent a ruqa to the police station for registration of the FIR and, thereafter, a raid was conducted and accused persons were arrested and one spring actuated knife was recovered from the appellant.

On completion of the investigation, the police submitted

the challan and charge under Section 25 of the Act was framed against the appellant to which he did not plead guilty and claimed trial. The trial Court vide its judgment dated 20.08.2004 held the appellant guilty of offence punishable under Section 25 of the Act.

Learned Senior Counsel for the appellant, at the very outset, has not challenged the judgment of conviction of the appellant and has contested the sentence awarded to him by the trial Court. It is submitted on behalf of the appellant that with regard to the similar offence another FIR No.45 dated 23.02.2002 under Sections 399 and 402 of the Indian Penal Code (in short 'IPC') at Police Station Focal Point, Ludhiana was registered against the appellant along with 04 other co-accused namely Rajesh Kumar, Manoj Kumar, Jatinder Kumar @ Rinku and Amrik Singh @ Chhinda. All the accused persons including the appellant were acquitted by the Additional Sessions Judge (Ad hoc) Fast-track Court, Ludhiana vide its judgment dated 20.08.2004. A copy of the judgment dated 20.08.2004 is taken on record as Mark X.

It is, thus, submitted on behalf of the appellant that the trial Court passed 02 orders on the same date i.e. one regarding the present FIR No.46 dated 23.02.2002 convicting the appellant and the other regarding the FIR No.45 dated 23.02.2002, acquitting all the accused persons including the appellant, as no offence could be proved and, therefore, the appellant is entitled for reduction in the sentence. It is also submitted that the offence pertains to the year 2002 and the present appeal was filed in the year 2004 and the sentence of the appellant was suspended vide order dated 14.09.204. The appellant has not misused

the concession of bail for the last 13 years and he is not involved in any other case, thus, the learned senior counsel for the appellant prayed that the sentence awarded to the appellant may be reduced to the period already undergone by him i.e. 01 month and 13 days.

Counsel for the State, in reply, has filed the custody certificate dated 16.11.2017 today in the Court. As per the custody certificate, the appellant has undergone 01 month and 13 days of actual sentence and there is no other case pending against the appellant.

Considering the fact that the appellant has not challenged the conviction of the appellant, the judgment dated 200.08.2004 qua conviction of the appellant is upheld, however, in view of the fact that the appellant is the first offender; has already undergone 01 months and 13 days of actual sentence; is not involved in any other case subsequent to the present FIR relating to the year 2002 and has faced the agony of protracted trial for a period of about 15 years and has not misused concession of bail for last the 13 years, I deem it appropriate that the sentence of 06 months awarded by the trial Court is reduced to the period of 01 month and 13 days already undergone by him.

Ordered accordingly.

In view of the above, the appeal is disposed of.

16.11.2017
yakub

(ARVIND SINGH SANGWAN)
JUDGE

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