

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

Criminal Appeal S-1074-SB of 2005

Date of Decision: May 25, 2017

Sombir @ Dhillu

.....Appellant

Versus

State of Haryana

..... Respondent

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

Present : Mr. Sushil Sheoran, Advocate
for the appellant.

Mr. Kapil Aggarwal, Addl. A.G., Haryana.

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

Judgment and order dated 7/9.6.2005 passed by learned Additional Sessions Judge, (Fast Track Court), Bhiwani stood challenged by the appellant by filing the present appeal.

Vide impugned judgment and order, the learned trial Court convicted the appellant under Section 25 of the Arms Act and sentenced him to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.2,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of three months.

As per the prosecution case on 20.11.2003 Inspector

Ram Avtar alongwith other police officials was present at Rawladhi bye-pass, Dadri in connection with patrolling and detection of crime. Inspector Ram Avtar received secret information to the effect that five youths were present in a deserted hotel of Ishwar Singh situated near Rawladhi Canal on Rohtak road and they were preparing to loot petrol pump of Kishore Mittal, Rawladhi and in case a raid was conducted immediately, they could be apprehended. Inspector Ram Avtar formed four raiding parties and disclosed them the contents of the secret information. The hotel in question was thereafter surrounded from all the sides. Inspector Ram Avtar went near the hotel and found persons sitting inside. He saw them in the candle light through the holes in the brick walls. One of those boys proclaimed that Satbir would be their leader and they would act according to his plan. One of the youths stood up. He was armed with a pistol and stated that on that day, they would rob Kishore Petrol Pump and Manoj would fire in the air whereas he himself alongwith Mohit would point pistol towards the persons present at the petrol pump while Kuldeep and Rajesh would loot the cash money and booty so looted would be shared by them equally. Inspector Ram Avtar loudly proclaimed that the police had surrounded them from all sides and they should better surrender themselves with the weapons. All the youths ran towards the door

of the room. Inspector Ram Avtar along with Head Constable Satbir Singh apprehended one youth, namely, Sombir @ Dhillu carrying a pistol of .315 bore and one live cartridge. Similarly, Manoj and Mohit were apprehended carrying .315 bore country made pistol each alongwith one live cartridge. Kuldeep and Rajesh were apprehended and each one of them was found in possession of iron rod.

As appellant Sombir @ Dhillu was found in possession of an unlicensed country made pistol of .315 bore, he was booked under Section 25 of the Arms Act and Sections 399/402 IPC and later on, he was convicted and sentenced under Section 25 of the Arms Act only, as mentioned above.

Learned counsel for the appellant has not challenged the impugned judgment of conviction passed by the learned trial Court. However, he has submitted that the appellant is facing the agony of criminal prosecution for the last more than thirteen years. Out of the sentence of two years imposed upon him, he has already undergone a period of 1½ years. Prayer has, accordingly, been made for taking a lenient view in the matter of his sentence of imprisonment.

Learned State counsel has opposed the prayer by submitting that the sentence of imprisonment imposed upon the appellant is commensurate with the crime committed by him.

As per the custody certificate produced by the learned State counsel, the appellant has already undergone total sentence of one year, six months and seventeen days out of the sentence of two years imposed upon him.

Taking into the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the appellant behind the bars, once again, for undergoing his remaining sentence of imprisonment. Ends of justice shall be suitably met, if the same is reduced to the one already undergone by him.

Resultantly, the conviction of the appellant under Section 25 of the Arms Act is upheld whereas his sentence of imprisonment is reduced to the one already undergone by him. The sentence of fine alongwith its default clause is maintained.

The appeal is, accordingly, disposed of.

May 25, 2017
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No