

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

Crl. Appeal S-293-SB of 2005
Date of Decision : October 13, 2017

Om Parkash @ Saini

.....Appellant

VERSUS

The State of U.T., Chandigarh

.....Respondent

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

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

Mr. G.S.Chahal, Additional Public Prosecutor
for U.T., Chandigarh.

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

The appellant was tried for committing the offence punishable under Section 25 of the Arms Act as he was found in possession of a country made pistol and three live cartridges without having a licence or permit to carry the same. Vide judgment and order dated 5.2.2005, learned Additional Sessions Judge, Chandigarh convicted him for the aforementioned offence and sentenced him to undergo rigorous imprisonment for three years and to pay a fine of Rs. 5,000/- and in default of payment of fine, to undergo further rigorous imprisonment for six months. The period of imprisonment already undergone by him during enquiry, investigation or trial of the case was ordered to be set off against the substantive sentence awarded to him.

Aggrieved of his conviction and sentence, the appellant filed the present appeal which stands admitted and he is presently on bail.

After hearing learned counsel for the parties and on going through the record, this Court finds that during the investigation of FIR No. 253 of 2002, Police Station Sector-19, Chandigarh, the appellant suffered disclosure statement before Sub Inspector Bhupinder Singh that he had kept concealed one country made pistol and three live cartridges beneath the ground near a deserted tubewell in Sector 33 Terrace Garden, Chandigarh. Pursuant to the same, the appellant got recovered country made pistol Ex. P1 and three live cartridges Exs. P2 to P4. The recovery of the illicit weapon from the appellant stands duly established. PW2 HC Ram Tirath, Armourer testified that he had mechanically tested country made pistol Ex. P1, which was found to be in working order. Even the cartridges Exs.P2 to P4 were found to be live. The prosecution had brought on record the order Ex. PA passed by the District Magistrate, Chandigarh according sanction to prosecute the appellant under Section 25 of the Arms Act.

In view of the above, no case is made out for any interference in the impugned judgment of conviction passed by the learned trial Court.

As regards the question of sentence, it may be

noticed that the appellant is facing the agony of criminal prosecution for the last more than fourteen years. When he was heard by the learned trial Court on the quantum of sentence, he had pleaded that he was sole bread winner of his family. As per the custody certificate produced by the learned Additional Public Prosecutor, the appellant has already undergone total sentence of one year, eleven months and twenty nine days out of the sentence of three years imposed upon him.

Taking into consideration the totality of the circumstances, this court finds that the appellant, who is on bail for the last more than twelve years, need not be sent behind the bars, once again, for undergoing his remaining sentence of imprisonment. Ends of justice shall be suitably met, if his substantive sentence of imprisonment is reduced to the one already undergone by him.

Resultantly, the conviction of the appellant under Section 25 of the Arms Act is upheld. His substantive 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.

October 13, 2017

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**(T.P.S. MANN)
JUDGE**

Whether speaking/reasoned.

: Yes/No

Whether Reportable.

: Yes/No