

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

Crl. Appeal No.S-1910-SB of 2016 (O&M)

Date of Decision: March 23, 2017

Gurshinder Singh

...Appellant

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Tushar Sharma, Legal Aid counsel
for the appellant.

Mr.Deep Singh, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present appeal has been filed by the appellant against State of Punjab, challenging the judgment of conviction and order of sentence dated 21.03.2016 passed by learned Judicial Magistrate Ist Class, Faridkot, whereby the appellant was held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of one year under Section 9 of the Punjab Good Conduct of Prisoners (Temporary Release) Act,1962. It is further ordered that this punishment is in addition to the punishment already awarded to the convict/accused Gurshinder Singh for offence in which he is undergoing imprisonment.

The brief facts of the prosecution case as noted down in the judgment passed by learned Judicial Magistrate Ist Class, Faridkot, are as

under:-

“2. Brief facts of the complaint are that accused Gurshinder Singh was sentenced to undergo rigorous imprisonment for 10 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 years under Section 18 of NDPS Act, 1985, by the learned Court of Mrs.Ramesh Kumari, Special Judge, Faridkot. in case FIR No.43 dated 25-04-2010 under Section 18/61/85 NDPS Act, P.S Sadar Faridkot. He was released on parole on 02-06-2012 for availing four weeks parole on receipt of order from District Magistrate, Sri Muksar Sahib vide order No. 9226 dated 09- 05-2012. He was directed to surrender in the jail on 01-07-2012. Form 'H' was given to him in which the date of surrender was mentioned as 01-07-2012. But the accused did not surrender in the jail on the said date, rather he admitted in this jail on 10/05.2015. Thus, he remained absconded from parole for 1043 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.”

Notice of accusation for offence under Section 9 of the Punjab Good Conduct (Temporary Release) Act 1962 was served upon accused-appellant, to which he pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 Sucha Singh, Deputy Superintendent Maintenance, Modern Central Jail, Faridkot and PW-2 Gurmail Singh, Warder-cum-Munshi, Modern Central Jail Faridkot.

At the close of prosecution evidence, the accused-appellant was examined under Section 313 Cr.P.C. He was confronted with the evidence of the prosecution and he denied the correctness of the evidence and pleaded himself as innocent.

No witness was examined in defence.

The learned trial Court, after appreciation of the evidence, convicted and sentenced the accused-appellant as stated above.

At the time of arguments, learned counsel for the appellant did not dispute the findings regarding conviction and only prayed for reduction of sentence of the appellant. He contended that the appellant is poor person and only bread earner of the family. Learned counsel for the appellant next contended that appellant has already undergone 12 days during trial in the present case till 21.03.2016 and he is undergoing sentence in another case and the sentence in the present case is yet to be started.

On the other hand, learned State counsel argued that case of the prosecution has been duly proved by the PWs. There is nothing on the record to show false implication of the accused in the present case. Learned State counsel, therefore, argued that there being no merit, the present appeal should be dismissed.

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

In view of the evidence, I find that the prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt. Therefore, the judgment of conviction dated 21.03.2016 passed by learned Judicial Magistrate Ist Class, Faridkot, is correct, as per law and does not require any interference from this Court.

It is pertinent to mention here that vide separate order of even date passed in CRM No.16159 of 2016, the sentence of the appellant in the present case has been ordered to run concurrently with the sentence passed in case FIR No.43 date 25.04.2010 registered at Police Station Sadar Faridkot, under Section 18 of the NDPS Act. As the appellant is already undergoing sentence in case FIR No.43 dated 25.04.2010 and the sentence imposed upon the appellant in the present case has already ordered to run

concurrently as stated above, therefore, the sentence of appellant in the present case is reduced to the sentence already undergone by him.

Accordingly, present criminal appeal stands partly allowed.

Appellant Gurshinder Singh, who is in custody, be set at liberty forthwith, if his custody is not required in connection with any other case.

March 23, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No