

110

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

**CRM-M-20850-2017
Date of Decision: 02.11.2017**

Mukhtiar Singh

..... Petitioner

Versus

Intelligence Officer, Directorate of Revenue Intelligence, Amritsar

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. D.S. Pheruman, Advocate,
for the petitioner.

Mr. J.S. Walia, Sr. DAG, Punjab.

SUDIP AHLUWALIA J. (ORAL)

This is a petition filed under Section 427 of the Cr.P.C. in which the petitioner, who has been convicted in two separate criminal trials has prayed for running of the sentences awarded to him in those cases concurrently. He was first convicted in Criminal Complaint No.44/2 of 28.01.1992 under Section 135 of the Customs Act, 1962 by the Court of the Ld. Chief Judicial Magistrate, Amritsar on 03.11.1997 in which the sentence of Rigorous Imprisonment for five years apart from the fine of ₹5,000/- was awarded to him. The appeal filed against such judgment of conviction was subsequently dismissed on 22.01.2012. The Revisional Application preferred against such dismissal of appeal was thereafter dismissed on 25.02.2016.

[2]. As per the custody certificate filed in this Court earlier, it is seen that the actual sentence undergone by the petitioner in the aforesaid case was three years, two months and twenty seven days as on 03.10.2017,

and after calculating the admissible remission period, it came to be in excess of three years and nine months.

[3]. Second conviction of the petitioner was in connection with Sessions Case No.47 of 2001 arising out of a complaint under Sections 21/23/28/29 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act'). The petitioner was convicted by the Court of Ld. Special Judge, Gurdaspur on 07.01.2005 and was sentenced to undergo Rigorous Imprisonment for ten years apart from imposition of a fine of ₹1,00,000/- along with co-convict Dilbagh Singh. The appeal preferred against such judgment of conviction was dismissed on 03.11.2008, and no revision or any other proceeding challenging such dismissal of appeal was preferred. In connection with the aforesaid case under the NDPS Act, according to the custody certificate dated 03.10.2017, the petitioner had already undergone the sentence awarded to him.

[4]. He, therefore, now seeks concurrence of the sentence awarded to him in the original complaint case under Section 135 of the Customs Act along with the sentence undergone by him following his second conviction, since he was not released on bail or parole in either of the cases Post-Conviction.

[5]. In the case of “**Anil Kumar Vs. State of Punjab**” 2017(1) RCR (Criminal) 691, the Hon'ble Supreme Court had allowed the appeal preferred by the convict in two separate cases, in which he had challenged the orders of this Court declining his prayer for concurrent running of sentences by observing *inter alia*:-

“8. In the present case, the appellant was earlier convicted under Section 22 NDPS Act and subsequently convicted under Section 27 (b)(ii) and Section 28 of the

Drugs and Cosmetics Act, 1940. Considering the nature of the offences for which the appellant was convicted and the facts and circumstances of the case, we deem it appropriate to direct that the sentences imposed on the appellant in FIR No.37 and Complaint No.638 shall run concurrently. However, the fine amount and the default sentence or sentences are maintained. If the fine amount is not paid, the default sentence will run consecutively and not concurrently.

9. The substantive sentences imposed on the appellant are ordered to run concurrently and the appeal is thus allowed.”

[6]. On going through the aforesaid decision, the prayer of the petitioner appears to be justified and in order, since it is a matter of record that his conviction is not in two separate cases under the NDPS Act alone. As such, he is found to be entitled to the concurrence of the sentences awarded to him in the first as well as the second complaint cases.

[7]. The prayer is, therefore, allowed and the sentence awarded to the petitioner in connection with Criminal Complaint No.44/2 of 28.01.1992 under Section 135 of the Customs Act, 1962 for which he is currently undergoing imprisonment shall be treated to have been operative from the date of his conviction. He may, accordingly, be released after completion of the concurrent sentence in this manner except if wanted in connection with any other case.

[8]. Disposed off.

02.11.2017

Bhumika

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No