

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

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CRR No.3691 of 2013 (O&M)

Date of Decision: March 20, 2017

Deepak

....Petitioner

vs.

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Ravinder Malik, Advocate
for the petitioner.

Mr. Satish Saini, DAG, Haryana.

TEJINDER SINGH DHINDSA, J.

The instant petition is directed against the order dated 13.11.2013, passed by the learned Additional Sessions Judge, Sonapat in terms of which, the judgment of conviction dated 26.11.2011 and order of sentence dated 29.11.2011, passed by the learned Judicial Magistrate 1st Class, Sonapat, holding the petitioner to be guilty of an offence punishable under Section 25 of the Arms Act and sentenced to undergo simple imprisonment for one year and to pay fine of Rs.500/- has been affirmed.

Petitioner was apprehended on 11.12.2007, based on secret information by a police party headed by Sub Inspector Mool Chand and he was found in possession of a country made pistol . 315 bore. Accused/petitioner could not produce any permit

or license for possession of such weapon. FIR was registered and accused was arrested. Statements under Section 161 of the Criminal Procedure Code, of the witnesses were recorded. After completion of investigation, challan was presented. Copy of the documents as contemplated under Section 207 Cr.P.C. were supplied to the accused. Charge in support of commission of an offence punishable under Sections 25/54/59 of the Arms Act was framed against the petitioner on 06.08.2008 and to which, he pleaded not guilty and claimed trial.

Prosecution in support of its case produced seven official witnesses. Accused however did not adduce any evidence. Concurrent findings have been recorded by the Courts below. Such finding recorded by the trial Court and affirmed by the lower Appellate Court are based upon due appreciation of cogent and consistent evidence.

At this stage, learned counsel appearing for the petitioner would make a statement that he would not be assailing the conviction of the petitioner on merits, but prays for indulgence of this Court to take a lenient view as regards quantum of sentence.

Learned State counsel has produced during the course of hearing the jail custody certificate of the petitioner. A perusal of the same would reveal that the petitioner has undergone total custody period of three months and eight days. Petitioner was released on bail on 20.02.2014 on account of suspension of his sentence ordered by this Court during pendency of the revision

petition.

It has gone undisputed that the petitioner was a first time offender and there are no other criminal proceedings pending against him. The recovery of the weapon from the petitioner relates back to the year 2007. The petitioner has already faced a prolonged trial of almost a decade. Even the concession of bail granted to the petitioner on 17.02.2014, has since not been misused. The petitioner has already undergone a period of three months and 14 days out of the substantive sentence of one year simple imprisonment awarded to him.

This Court is of the considered view that the ends of justice would be met if the sentence awarded to the petitioner is reduced to the period already undergone. In taking such view, I would draw support from the observations of the Hon'ble Supreme Court in “**Nasir vs. State of Uttar Pradesh, 2010(5) RCR (Criminal) 415**”, which were in the following terms:-

“The sole appellant was convicted under Section 399 read with Section 402 of the Indian Penal Code, 1860, and sentenced to undergo rigorous imprisonment a period of five years. He was further convicted under Section 25(1)(a) of the Arms Act and sentenced to undergo rigorous imprisonment for a period of one year.

Learned counsel appearing on behalf of the appellant submitted that the sentence of imprisonment awarded against his client may be reduced to the period already undergone because the occurrence had taken place twenty nine years

ago and he has remained in custody for a period of more than six months.

In the facts and circumstances of the case, we are of the view that the prayer is reasonable and deserves to be granted. Accordingly, the appeal is allowed in-part and, while upholding the conviction of the appellant, sentence of imprisonment awarded against him is reduced to the period already undergone by him.”

In view of the reasons recorded above, the conviction of the petitioner is upheld and the revision petition to such extent is dismissed. However, the sentence awarded to the petitioner is reduced to the period already undergone by him.

The petitioner, who is on bail, is discharged from the liability of the bail bonds.

Revision petition is disposed of in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

20.03.2017
anju rani

***Whether speaking/reasoned* : Yes/No**
***Whether reportable* : Yes/No**