

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

CRR No.207 of 2017 (O&M)

Date of Decision:08.03.2017

Balbir Singh @ Bira

... Petitioner

Versus

State of Punjab

... Respondent

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. A.S.Brar, Advocate,
for the petitioner.

Mr. P.S.Grewal, DAG, Punjab.

TEJINDER SINGH DHINDSA, J.(ORAL)

The instant revision petition is directed against the judgment dated 14.12.2016 passed by the learned Additional Sessions Judge, Moga affirming the judgment of conviction and order of sentence dated 12.07.2013 of the Judicial Magistrate Ist Class, Moga, whereby the petitioner stands convicted for commission of offence punishable under Section 61 of the Punjab Excise Act and has been sentenced to undergo rigorous imprisonment for a period of 01 year and to pay a fine of Rs.2000/- and in default thereof to further undergo simple imprisonment for a period of 03 months.

At the very outset, learned counsel appearing for the petitioner submits that he does not assail the judgment of conviction on merits and only prays for reduction of sentence.

In view of such limited prayer, this Court need not dilate on the facts of the case in detail.

Suffice it to notice that the process of law was set in motion on

the basis of secret information received on 09.10.2007 by ASI Jarnail Singh according to which the accused/present petitioner was habitual of selling illicit liquor. A raiding party having been constituted and having reached at the place as disclosed by the secret informer, the accused/petitioner was found present and in possession of two tubes of black colour and which were tightened with wooden pieces. The Investigating Officer found illicit liquor in both the tubes. The tubes were marked as No. 1 and No.2 and separate samples measuring 250 ml. were drawn from each of the tubes and the remaining quantity in the tube marked as No.1 was found to be 59 bottles of 750 ml. each while tube No.2 contained 99 bottles of 750 ml. each. The recovered illicit liquor was taken into police possession and on obtaining the test report from the Excise Inspector and the Assistant Chemical Examiner, Punjab, challan against the accused/petitioner was presented in the Court. Trial has culminated in the conviction and sentence of the petitioner as noticed hereinabove.

This Court has also gone through the judgment of conviction passed by the trial Court as also of the appellate Court affirming the conviction. The judgment of conviction has been recorded upon due appreciation of evidence adduced on record and by assigning valid and cogent reasons. There would be no scope for interference insofar as the conviction of the petitioner is concerned in exercise of the revisional jurisdiction of this Court.

Counsel for the petitioner, however, has cited certain mitigating factors and which have weighed with this Court to accept the prayer as regards reduction of sentence.

Petitioner has faced pangs of a prolonged trial as also

proceedings in appeal since the year 2007. The petitioner is stated to be a poor person and with the family to support. He is a first time offender. The custody certificate furnished by learned State counsel reveals that the petitioner otherwise has clean antecedents and is not involved in any other criminal proceedings. Petitioner has already undergone a total sentence period of 02 months and 23 days as on 27.02.2017. In other words, as of date petitioner has already undergone a total sentence in excess of 03 months.

In the considered view of this Court, the grounds and factors cited by the learned counsel would be taken as sufficient mitigating circumstances to reduce the sentence of the petitioner.

Accordingly, while maintaining the conviction of the petitioner, the present revision petition is disposed of with directions that the sentence of the petitioner is reduced to the period already undergone. Petitioner be released forthwith upon payment of fine if not already paid.

With such modification in the matter of sentence, the revision petition stands disposed of.

08.03.2017

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**

Whether speaking/reasoned

Yes

Whether Reportable

No