

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

**CRR No.998 of 2017 (O&M)
Date of Decision: 05.04.2017**

Parmod Kumar

... Petitioner

Versus

U.T. Chandigarh

... Respondent

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

Present:- Mr. Sunny Sagar, Advocate for the petitioner.

Mr. Gautam Dutt, Advocate for U.T. Chandigarh.

...

TEJINDER SINGH DHINDSA, J.

The instant revision is directed against the order dated 20.01.2017 passed by the learned Additional Sessions Judge, Chandigarh and in terms of which the appeal preferred by the petitioner against the judgment of conviction dated 18.05.2016 under Section 61 of the Excise Act and order of sentence carrying even date i.e. 18.05.2016 awarding sentence of SI for a period of six months along with fine of Rs.5000/- and in default of payment of fine to further undergo SI for a period of one month has been dismissed.

Counsel at the very outset makes a submission that he would not be assailing the conviction of the petitioner on merits but would confine the scope of the petition as regards quantum of sentence.

In the light of such submission made by counsel, it would not be necessary for this Court to delve into the details of the case. Suffice it to notice that case of the prosecution was that on 25.11.2011, SI Sukhchain Singh along with

other police officials were on patrolling duty and when he was near bus stop Sector-9 near market Chandigarh, a secret information was received that illicit liquor is lying in booth No.19, 1st Floor, Rehri Market, Sector-9, Chandigarh and if spot is raided, the illicit liquor could be recovered. Relying upon such secret information, a telephonic message was given to Excise Inspector, Sumit Sharma and thereafter the raiding party reached booth No.19 and found the same to be locked and outside the booth one boy was present who disclosed his name as Parmod Kumar (present petitioner) and who stated that key of the booth was with him. On opening the booth, 200 cases of liquor (beer and whisky) were recovered and taken into possession.

The trial that ensued has culminated into the conviction and order of sentence of the petitioner as aforenoticed. As per custody certificate furnished by learned counsel appearing for U.T. Chandigarh, the petitioner has already undergone an actual sentence period of 2 months and 17 days as on date. Including remissions the total sentence undergone is 2 months and 25 days.

This Court finds that there are sufficient mitigating circumstances to accept the prayer made by the counsel as regards quantum of sentence.

Petitioner is stated to be the sole bread earner of the family and with a large family to support. Custody certificate would reveal that the petitioner is a first time offender and is not involved in any other criminal proceedings. Out of the substantive sentence of 6 months SI, he has already undergone an actual sentence period of 2 months and 17 days. The fine imposed of Rs.5000/- already stands paid. It would also be apposite to take note that the trial Court while recording the judgment of conviction had observed that even though 200 cases of liquor had been seized but samples had been drawn only from 64 bottles as per

report Ex.PW6/A.

In the considered view of this Court, ends of justice would be met, if the sentence of the petitioner is reduced to the period already undergone in the light of the mitigating circumstances noticed hereinabove.

In view of the discussion above, the present revision petition is disposed of in terms of maintaining the conviction of the petitioner but reducing the sentence to a period already undergone.

Petitioner accordingly be released forthwith.

Disposed of.

05.04.2017

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | No |