

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 499 of 2005**

Akshay Kumar S/o Duryodhan Dandsena, Aged about 25 years,
Occupation-- Agriculture, R/o. Village- Badenawapara, P.S.- Sariya,
District- Raigarh (C.G.).

----Applicant**Versus**

State of Chhattisgarh, Through District Magistrate, Raigarh (C.G.).

---- Respondent

For Applicant	:	Mr. Roop Naik, Advocate
For Respondent	:	Mr. Sameer Behar, PL

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****15/01/2018**

- This revision has been preferred under Section 397 read with Section 401 of the Code of Criminal Procedure against the judgment dated 14/11/2005 passed in Criminal Appeal No. 47/2006 by the 2nd Additional Sessions Judge, Raigarh, whereby, the Learned 2nd Additional Sessions Judge has affirmed the judgment dated 30/03/2005 passed in Criminal Case No. 839/2003 by the Judicial Magistrate First Class, Sarangarh convicting and sentencing the accused/Applicant as under:

<u>Conviction</u>	<u>Sentence</u>
Under Section 34 (1) (a) of the Chhattisgarh Excise Act, 1915.	SI for one month and fine of Rs. 5000/- with default stipulation.

- Case of the prosecution, in brief, is that on 09/08/2003, District Excise Officer, U.L. Taran (PW3) and Excise Sub-Inspector, Manohar (PW2),

after receiving information, had gone to the village of the applicant and searched his house. On search, they recovered and seized 4 liters of country made liquor from the possession of the accused/Applicant. Seizure Panchnama (Ex.P-1) was prepared. After investigation, a charge-sheet was filed. Charge was framed against the accused/Applicant under Section 34 (1) (a) of the Chhattisgarh Excise Act, 1915.

3. After trial, the Applicant has been convicted and sentenced and the judgment of conviction and sentence is affirmed as mentioned in the first paragraph of this order. Hence, this revision.
4. Learned Counsel appearing for the Applicant submits that he does not press this revision on merit and confines his argument to the sentence part only. He further submits that out of the total jail sentence of 1 month, the Applicant has already undergone about 21 days. He is facing the *lis* since 2003 i.e. for about 14 years and he has no criminal antecedent. Therefore, the sentence awarded to him may be reduced to the period already undergone by him.
5. Per contra, learned Counsel appearing for the State supported the impugned judgment
6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. Considering the facts and circumstances of the case, particularly, that the applicant has already undergone about 21 days out of the total jail sentence of 1 month, he is facing the *lis* since 2003 and he has no known criminal antecedent, I am of the opinion that the ends of justice would be

met if, while upholding the conviction imposed upon the Applicant, he is sentenced with the period already undergone by him and the sentence of fine imposed upon him is affirmed. Ordered accordingly.

8. Consequently, the revision is partly allowed to the extent indicated above.
9. Records of the Courts below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
Judge