

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 46 of 2009**

P. Somaiyya S/o- P. Zednna, Aged about 30 years, R/o- G-Cabin, Jai Bharat Chowk, Charoda, Bhilai, Distt. Durg, (C.G.).

---Applicant

Versus

State of Chhattisgarh, Through- P.S. Kumhari, District- Durg, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Pawan Shrivatava, Advocate
For Respondent	:	Mr. Anil Pandey, Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

07/09/2018

1. This revision has been preferred against the judgment dated 17/12/2008 passed by the First Additional Sessions Judge, Durg in Criminal Appeal No. 82/2008, affirming the judgment passed by Chief Judicial Magistrate, Durg in Criminal Case NO. 2004/2008, whereby the applicant has been convicted under Section 34 (1-a), (2) of the Chhattisgarh Excise Act and has been sentenced to undergo RI for 1 year and to pay fine of Rs. 25,000/- with default stipulation.
2. As per prosecution story, on 12/08/2008 on the basis of secret information received from the informant, the applicant was searched by S.K. Sharma (PW2) Excise Sub-Inspector and seized total 146 quarter of foreign made liquor from the possession of the present applicant. After investigation, a charge-sheet was filed before the

Chief Judicial Magistrate, Durg. After trial, vide judgment date 25/11/2008, the applicant has been convicted and sentenced as mentioned in the first paragraph of this order, which was also affirmed by the Appellate Court. Hence, this revision.

3. Learned counsel appearing on behalf of the applicant submits that he does not want to press this revision on merits and confines his argument to the sentence part only. It is further submitted that the incident is of the year 2008, the applicant is facing this */is* since 10 years, the applicant has undergone about 5 months out of total jail sentence of 1 year and he has no criminal antecedent, therefore, the jail sentence awarded to him may be reduced to the period already undergone by him.
4. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
5. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
6. Considering the above facts and circumstances, particularly considering that out of total jail sentence of 1 year, the applicant has undergone about 5 months and he is facing this */is* since 2008, I am of the considered opinion that the ends of justice would be met if, while upholding the conviction imposed upon the applicant, the jail sentenced awarded to him is reduced to the period already undergone by him.
7. Consequently, the revision is partly allowed. The conviction of

applicant under Section 34 (1-a), (2) of the Chhattisgarh Excise Act is upheld and the sentence awarded to him is reduced to the period already undergone by him. The fine sentence is also affirmed.

8. It is directed that if the fine sentence has not been deposited, the same shall be deposited by the applicant within 1 month from the date of receipt of copy of this order. In default of payment of fine sentence, the applicant shall be liable to undergo SI for 2 months.
9. The applicant is on bail. His bail bond is not discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.
10. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge