

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

Crl. Revision 1029 of 2009

Date of Decision : September 13, 2018

Jai Singh

.....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN

Present : Mr. Sanjay Jain, Advocate
for the petitioner.

Mr. Praveen Bhadu, Asstt. A.G., Haryana.

T.P.S. MANN, J. (Oral)

The petitioner Jai Singh and two others, namely, Dalbir Singh and Jaibir Singh, were tried for committing the offence punishable under Section 3 of the Railway Properties (Unlawful Possession) Act, 1966. Vide judgment and order dated 13.11.2007, learned Special Railway Magistrate, Haryana, Ambala Cantt. convicted them for the aforementioned offence and sentenced them to undergo rigorous imprisonment for one month each.

Aggrieved of their conviction and sentence, only the petitioner and Dalbir Singh preferred appeals which were

disposed of by affirming their conviction but converting the sentence of imprisonment from rigorous imprisonment for one month to simple imprisonment for one month. Still not satisfied, the petitioner preferred the present revision which stands admitted and he is presently on bail.

According to the prosecution, all the three accused were found in possession of three plastic bags on 7.9.2003 at 2.30 a.m. when they were present near the wall of the railway workshop. Two of those bags contained two rear cover excel aluminum with word 3-91, R-F.M., MMW while the third bag contained two rear excel and one front excel aluminum. The front cover had word 'Indian Railways' inscribed on it.

After hearing learned counsel for the parties and on going through the judgments passed by the Courts below, this Court finds that the prosecution has been successful in proving the charge against the petitioner. The various witnesses examined by the prosecution had deposed in unequivocal terms that the petitioner and his two co-accused were found in unlawful possession of railway property. Despite cross-examining the prosecution witnesses at length, the defence could not bring any material on the record from which it could be said that the petitioner had been falsely implicated. Under these circumstances, no case is made out for any interference in the

conviction of the petitioner for the offence under Section 3 of the Railway Properties (Unlawful Possession) Act, 1966.

As regards the question of sentence, it may be noticed that the petitioner is facing the agony of criminal prosecution for the last more than fifteen years. On account of his conviction in the present case, he was also departmentally proceeded and the penalty of removal from service was imposed upon him. However, the penalty was subsequently reduced to compulsory retirement. As per the custody certificate already brought on record by the learned State counsel, he has undergone a period of twelve days out of the sentence of one month imposed upon him. He is on bail pursuant to the order passed by this Court on 24.4.2009. There is no material on the record which could indicate that he has misused the concession of bail in any manner. He is also not a previous convict. When he was heard by the learned trial Court on the quantum of sentence, he had pleaded that he has been facing the protracted trial since the year 2003 and the railway property recovered from his possession was having worth of Rs.4,700/- only.

Taking into consideration the totality of the circumstances, this Court is of the view that the petitioner need not be sent behind the bars, once again, for undergoing his remaining sentence of imprisonment. Ends of justice shall be

suitably met, if his substantive sentence of imprisonment is reduced to the one already undergone by him.

Resultantly, the conviction of the petitioner under Section 3 of the Railway Properties (Unlawful Possession) Act, 1966 is upheld. However, his sentence of imprisonment is reduced to the one already undergone by him.

The revision is, accordingly, disposed of.

September 13, 2018
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(T.P.S. MANN)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No