

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

Sr. No.237

CRR-3299-2017 (O&M)
Date of decision : 08.10.2018

Gurwinder Singh

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Vikas Gupta, Advocate, for the petitioner.

Mr. R.S. Bains, DAG, Punjab

SUDHIR MITTAL, J. (Oral)

The petitioner was accused of committing offence under Sections 304-A, 279, 337 and 427 of the Indian Penal Code (45 of 1860). Accordingly, FIR No.235 dated 06.11.2011, was registered against him at Police Station City Tarn Taran.

2 The petitioner was the driver of a bus, bearing No.PB-05-Q-0888, owned by Abohar-Fazilka Cooperative Transport Society Limited. It hit the motorcycle being driven by father of complainant-Jagmohan Singh from behind. Smt. Gurjit Kaur-mother of the complainant, fell down from the motorcycle and was crushed under the tyre of the bus and died at the spot.

3 The petitioner was tried and convicted vide impugned judgment dated 22.07.2014 and was sentenced as under:-

Section of I.P.C	RI	Fine	I/D of payment of fine
279 IPC	One year	Rs.2000/-	Further undergo RI for one month
304-A IPC	Two years	Rs.2000/-	Further undergo RI for one month
337 IPC	One year	Rs.2000/-	Further undergo RI for one month
427 IPC	Six months	Rs.2000/-	Further undergo RI for one month

4 His appeal has been dismissed vide impugned judgment dated 25.07.2017. Thus, the instant revision petition has been preferred.

5 Notice of motion was issued only on the quantum of sentence.

6 Learned counsel for the petitioner submits that the petitioner is the only bread winner of the family and that he does not have any criminal antecedents. He has suffered incarceration for a period in excess of one year and six months and thus, his sentence may be modified to the period already undergone by him.

7 Custody certificate dated 06.10.2018, by way of an affidavit of Sh. Harpreet Singh, PPS, Deputy Superintendent, Sub Jail, Patti, has been filed by the learned State counsel in Court today and the same is taken on record. According to this certificate, the petitioner has undergone actual custody of one year, seven months and twenty eight days. There is no other criminal case pending/decided against him.

8 It is, thus, apparent that the petitioner is not a hardened criminal. No other criminal case is pending/decided against him, even for a road accident. The FIR is of the year 2011 and judgment of conviction is of the year 2014 and thus, apart from having undergone trial for a period of three years the petitioner has also suffered actual incarceration of one year, seven months and twenty eight days.

9 Keeping in view above facts, the impugned judgment of conviction dated 22.07.2014, passed by Chief Judicial Magistrate, Tarn Taran and as upheld by the Addl. Sessions Judge, Tarn Taran, vide judgment dated 25.07.2017 is maintained. So far as, the order of

sentence, is concerned, the same is modified and the petitioner is sentenced to the period already undergone by him.

10 With the above modification in the sentence part, instant revision petition is dismissed. It is ordered that the petitioner-Gurwinder Singh, be released from the custody forthwith, in case he is not required in any other case.

11 A copy of this order be sent to the Court of Chief Judicial Magistrate, Tarn Taran, for compliance.

(SUDHIR MITTAL)
JUDGE

08.10.2018
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes / No
Yes/ No