

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

**CRR No.520 of 2019 (O&M)
Decided on: 23.10.2019**

Jaspreet Singh @ Jassa

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Inderjit Singh Brar, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J.

Prayer in this revision petition is for setting-aside the judgment of conviction as well as the order of sentence dated 12.02.2018 passed by the trial Court vide which the petitioner was convicted for offence punishable under Section 25 of the Arms Act and was sentenced to undergo rigorous imprisonment for a period of 01 year and to pay a fine of Rs.1,000/- and in default of payment of fine to further undergo imprisonment for a period of 10 days as well as for setting-aside the judgment dated 04.02.2019, vide which the appeal preferred by the petitioner/appellant was upheld by the Lower Appellate Court.

Brief facts of the case are that on 09.08.2014 ASI Gurmukh Singh along with other co-police officials were on a government vehicle and were proceeding towards Village Pipli, Golewala etc. in connection with the patrolling. When the police party reached the seepage drain of village Pipli at about 05:30 PM, then from the side of

Village Pakhi Kalan, one clean shaved person was seen coming on foot and on seeing the police party, he became nervous and sat down on the pretext of urinating. Thereafter on suspicion, ASI Gurmukh Singh with the help of his co-police officials apprehended him and on being asked, he disclosed his name and address as Jaspreet Singh @ Jassa son of Pargat Singh, resident of Pakhi Kalan. Before conducting the search of the accused, the Investigating Officer tried to join a public witness but nobody joined the investigation. Thereafter, on checking across the waist of the accused, one revolver .32 bore was recovered which was tied along with the pajama. On unloading the revolver, two live cartridges were also recovered. Rough sketch of the revolver was prepared and the .32 bore revolver along with two live cartridges were taken into police possession after putting the same into a plastic box duly endorsed with the seal bearing impression 'GS'. The seal after use was handed over to HC Jagsir Singh. Thereafter, ruqa was prepared and on the basis of the same, the present FIR was registered. During investigation, the site plan of the place of recovery was also prepared and statement of the witnesses were also recorded and after completion of the investigation, challan against the accused was presented before the trial Court.

On presentation of the challan, charge under Section 25 of the Arms Act was framed against the accused, to which he pleaded not guilty and claimed trial.

The prosecution examined Deepak, Ahlmad to Deputy Commissioner, Faridkot as PW1, ASI Gurnam Singh (Armor) as PW2, HC Jagsir Singh (recovery witness) as PW3, ASI Beant Singh as PW4,

HC Jasbir Singh as PW5 and ASI Gurmakh Singh as PW6 (wrongly re-numbered as PW4 instead of PW6) and closed the evidence.

After conclusion of the evidence of the prosecution, the statement of petitioner/accused was recorded under Section 313 Cr.P.C. and the entire incriminating evidence, which the prosecution produced against him, was put to him to tender explanation for the same. The petitioner/accused denied the allegation of the prosecution and pleaded that he has been falsely implicated in the case on the asking of Shaminder Singh son of Daljit Singh resident of Village Pakhi Kalan. In defence, the accused examined Bachittar Singh as DW1 and closed the defence evidence.

The trial Court, after hearing learned counsel for the parties and appreciating the evidence on record, convicted and sentenced the appellant/accused under Section 25 of the Arms Act.

Feeling dissatisfied with the judgment of conviction dated and order of sentence dated 12.02.2018, the petitioner/accused has preferred an appeal before the Lower Appellate Court and the same was upheld vide order dated 04.02.2019 passed by the Additional Sessions Judge, Faridkot. Thereafter, the petitioner has preferred a revision before this Court, in which notice of motion as well as the notice of the application for suspension of sentence has been issued on 02.07.2019.

Counsel for the petitioner, at the very outset, has submitted that since out of the total sentence of 01 year awarded by the trial Court, the petitioner has already undergone 05 months and 08 days of total sentence, he do not want to address arguments on merits and also submitted that the sentence of the petitioner be reduced to the period

already undergone by him.

Counsel for the petitioner, in support of his arguments, has also submitted that the petitioner is the first offender and he is not involved in any other case. It is further submitted that the petitioner is a poor person and has his own family to support and the petitioner has faced the agony of protracted trial and both the Courts below have not taken a lenient view considering the age of the petitioner and has also not granted the benefit of Probation of Offenders Act, therefore, by taking a lenient view, the sentence awarded to the petitioner be reduced to the period already undergone by him.

Counsel for the State has already filed the Custody Certificate in the Court and has not disputed the fact that the petitioner has undergone total sentence of 05 months and 08 days out of 01 year rigorous imprisonment awarded by the trial Court.

After hearing the counsel for the parties, I uphold the judgment of conviction passed by both the Courts below as the same are based on appreciation of the prosecution evidence, proving guilt of the petitioner, however, considering the fact that the petitioner has faced the agony of protracted trial; the petitioner has already undergone 05 months and 08 days of total sentence; he is a young boy aged about 25 years; the petitioner is not involved in any other case which shows that he has improved his character and has joined the mainstream of the society and also in view of the fact that he is a poor person and has his own family to support, the present revision petition is ***partly allowed*** and the sentence awarded to the petitioner is reduced to the period already undergone by him i.e. 05 months and 08 days. However, the

imposition of fine of Rs.1,000/- is upheld. The petitioner is directed to deposit the fine, if not deposited, so far, within a period of 02 months from today.

Disposed of accordingly.

(ARVIND SINGH SANGWAN)
JUDGE

23.10.2019
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No