

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

206

CRR-743-2008 (O&M)

DATE OF DECISION: 30.05.2019

BALJINDER SINGH

... Petitioner(s)

Versus

STATE OF PUNJAB

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Binderjit Singh, Advocate for the petitioner(s)

Mr. Amit Mehta, Senior DAG, Punjab.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has challenged the judgments and orders of the Courts below whereby he has been convicted under Section 61 (1) (c) of the Punjab Excise Act, 1914 and sentenced to undergo rigorous imprisonment for a period of 1 year and to pay a fine of Rs.5,000/-, in default of payment of fine to further undergo rigorous imprisonment for a period of five months, which was modified by the lower appellate Court to the extent that in default of payment of fine, the petitioner shall undergo rigorous imprisonment for a period of 1 month.

Learned counsel for the petitioner contends that he is not challenging the conviction of the petitioner and would confine his prayer to reduction in the sentence to the period already undergone by him. The petitioner has undergone an actual sentence of 1 month and 20 days which is reflected in the order dated 28.5.2018 whereby his sentence was ordered to be suspended during the pendency of the revision petition. The allegations against the petitioner are that he was found distilling illicit liquor by means of working still in his kitchen and 15 litres of illicit liquor was stated to have been recovered from him. He also contends that the incident took place on 11.09.2000. The

petitioner is not involved in any other case. He also contends that the petitioner is a poor person and sole bread winner of his family. He has faced protracted criminal proceedings although prosecution witnesses were examined after 7 years on 30.11.2006. There are contradictions in the statements of PW-3 and PW-4 which had cast doubt on the prosecution story. Independent witness is stated to have been joined at the time of recovery but he was not examined by the prosecution. The petitioner had examined this person in his defence and he had denied his presence at the time of recovery.

Heard.

The petitioner is a first offender. He is also stated to be a poor person and sole bread winner of his family. The offence had taken place in the year 2000 and thereafter, there is nothing to suggest that he again indulged in any such activity. He has faced protracted criminal proceedings for almost 2 decades and undergone an actual sentence of over 1 month and 20 days out of the total sentence of 1 year. I am of the view that it would be just and equitable if the sentence of the petitioner is reduced to the period already undergone by him.

Therefore, while maintaining his conviction, the sentence is reduced to the period already undergone by him.

With this modification, the petition stands disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

30.05.2019.

SwarnjitS

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No