

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
(Heard through VC)**

**CRM 5504 of 2021 in/and
CRR No. 188 of 2021 (O&M)
Date of Decision: 31.3.2021**

Sudeep

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Chanderhas Yadav, Advocate
for the applicant/petitioner.

Mr. P.P. Chahar, DAG, Haryana.

JAISHREE THAKUR, J.

CRM 5504 of 2021

This is an application filed under Section 397 of the Code of Criminal Procedure seeking suspension of sentence of the applicant/petitioner during the pendency of the revision, who has been convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of ₹10,000/- under Section 25 of the Arms Act. The main revision stands admitted. During the hearing of the application, both the parties are ad idem that the main revision itself be taken up for hearing, keeping in view the nature of issue involved therein.

Consequently, with the consent of the parties, the main revision itself is taken on board.

Main case

The present revision petition has been filed against the

judgment dated 15.2.2021 rendered by learned Additional Sessions Judge, Jhajjar, dismissing the appeal filed by the petitioner-accused against the judgment and conviction dated 1.9.2017 and order of sentence dated 4.9.2017 passed by learned Additional Chief Judicial Magistrate, Jhajjar, vide which the petitioner-accused was convicted for offence under Section 25 of the Arms Act, 1959 and sentenced to undergo rigorous imprisonment for one year and to pay fine of ₹10,000/- and in default of payment of fine to further undergo simple imprisonment for three months.

I have heard learned counsel for the parties and have gone through both the judgments rendered by learned courts below.

Briefly stated, on 26.11.2014 petitioner-accused was apprehended by the police party while on checking duty and on search one pistol .32 bore was recovered from the possession of petitioner.

After completion of investigation, report under Section 173 Cr.P.C. was filed against petitioner-accused, who faced trial. He was convicted and sentenced by learned trial court as aforementioned. The appeal filed by him against the said judgment of conviction and order of sentence was also dismissed by learned Additional Sessions Judge, Jhajjar.

Learned counsel for the revisionist-petitioner contended that in-fact revisionist is the only earning member of the family and has already already faced protracted trial. He does not assail the findings of the conviction recorded against the revisionist by both the Courts below and prays that the petitioner be released on probation.

I have heard learned counsel for the parties and have also perused both the judgments passed by learned courts below. The same are

based on evidence. There is no illegality or material irregularity in the concurrent findings recorded by learned courts below. Hence, there is nothing as to why this Court should interfere in the judgments passed by both the courts below convicting petitioner-accused for offence under Section 25 of the Arms Act.

However, so far as quantum of sentence is concerned, it has been contended by learned counsel for petitioner that he is not a previous convict and he is the only earning member of the family. It is also contended that he is not involved in any other case. It is further submitted that he has already undergone more than one month of the sentence out of one year. Hence, it is contended that he be given benefit of probation under the Probation of Offenders Act. He has also placed reliance upon judgment rendered by this Court in **Mann Dev v. State of Haryana, 1987(1) RCR (CrI.) 597**, wherein also the case was of recovery of country-made pistol and however, taking into consideration the antecedents of accused, he was ordered to be released on probation. Similarly, reliance is placed upon **Gurdev Singh v. State of Punjab, 1994(4) AICLR 842**, **Sudhir v. State of Haryana, 2001(2) RCR(CrI.) 336** and **Surjit Singh v. State of Punjab, 2003(2) RCR(CrI.) 429**, wherein accused was ordered to be released on probation for offence under Section 25 of Arms Act for recovery of country-made pistol.

Hence, taking into consideration the aforementioned facts and circumstances of the case, I am of the view that it is a fit case in which benefit of probation should be granted to petitioner-accused.

Hence, the present revision petition is partly accepted. While maintaining the judgment of conviction as passed by learned trial court and as affirmed by learned appellate court, the order of sentence is modified to the extent that petitioner is directed to be released on probation for a period of one year on his furnishing requisite bonds to the satisfaction of learned trial court undertaking that during this period, he will keep peace and be of good behaviour and he be called upon to receive the sentence in case of breach of any condition of the bond.

The petitioner be released forthwith, if not required in any other case.

The revision petition as well as the application (Criminal Misc. 5504 of 2021) stand disposed of accordingly.

31.3.2021
prem

(JAISHREE THAKUR)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>