

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

CRR-501-2021 (O&M)

Date of decision:13.07.2021

Mohd. Arshad

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. M.K. Dhot, Advocate for the petitioner.

Mr. Avtar Singh Sandhu, Addl. A.G., Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

The petitioner has preferred this petition being aggrieved of the judgment dated 01.04.2021 passed by Additional Sessions Judge, Sangrur, vide which the appeal filed by him, challenging the judgment of conviction and order of sentence dated 19.02.2018 passed by the Judicial Magistrate, 1st Class, Malerkotla, in case FIR No.20 dated 19.02.2014, under Section 7 of Essential Commodities Act and Section 420 IPC, registered at Police Station City-I, Malerkotla, was dismissed.

The brief facts of the present case are that on 19.02.2014, application bearing No.78 Dasti PS City-I, Malerkotla, was received from Food Supply Officer, Malerkotla, for registration of criminal case against Mohd. Arshad son of Mohd. Sadiq, owner of Arshad Repair Center, Qila Rehmatgarh, Malerkotla. Acting on a tip-off that Arshad had been selling small size of gas cylinder in black after transferring the gas, a raid was conducted at the shop of Arshad where he had been found transferring the

gas from big cylinder to small size cylinder . Eight cylinders filled with gas of 14 k.g. weight, 4 empty cylinders and the tools used for transferring the gas, had also been recovered. The accused was arrested. After completion of investigation and other formalities, challan was presented against the accused under the aforesaid sections.

On finding a prima facie case under Section 7 of the Essential Commodities Act and Section 420 IPC, the petitioner was charge-sheeted accordingly, to which he pleaded not guilty and claimed trial.

In order to prove its case, the prosecution had examined as many as six witnesses.

In the statement recorded under Section 313 Cr.P.C., the petitioner-accused denied the prosecution case and pleaded his innocent. However, no evidence was produced by the accused in his defence.

The trial Court, vide judgment of conviction and order of sentence dated 19.02.2018, convicted the petitioner under Section 7 of the Essential Commodities Act, and sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- and, in default of payment of fine, to undergo rigorous imprisonment for a period of two months. However, the trial Court acquitted the petitioner under Section 420 IPC.

Being dissatisfied, the appeal preferred by the petitioner was dismissed by the learned Appellate Court, vide impugned judgment dated 01.04.2021.

Still aggrieved, the petitioner has preferred the present revision petition.

At the very outset, the learned counsel appearing for the petitioner has, while confining his prayer to the quantum of sentence, submitted that the FIR in this case was registered on 19.02.2014; that petitioner has been facing the agony of trial for the last 07½ years approximately and that by now, the petitioner has already undergone a period of more than 03 months and 15 days out of the total sentence of one year. It is, thus, submitted that the substantive sentence imposed upon the petitioner may be reduced to the one already undergone by him. In support of his contentions, he relies upon the judgments rendered by the Coordinate Benches of this Court in Davinderjit Singh Vs. State of Punjab 2011 (2) R.C.R. (Criminal) 616 and Rattan Lal Vs. State of Haryana (CRA-294-SB-1986), decided on 28.10.1992.

On the other hand, the learned State counsel has, while controverting the aforesaid submissions, argued that the petitioner had been selling the gas cylinders in black after transferring the same from the Government cylinders, and a lenient view has already been taken by the trial Court. Therefore, the present revision deserves to be dismissed and the orders passed by the courts below are liable to be maintained.

I have heard learned counsel for the parties and with their able assistance, have gone through the records of the case.

Both the Courts below after having scrutinized the evidence on record, have rightly convicted the petitioner for the offences under Section 7 of the Essential Commodities Act. Though, the learned counsel for the petitioner did not lay challenge to the conviction part, yet in my opinion, in view of the evidence on record, there is no scope for interference in the

findings of the Courts below, so far as the conviction part is concerned. Hence, the conviction of the petitioner under Section 7 of the Essential Commodities Act is upheld.

However, keeping in view the facts that the Sword of Damocles has remained hanging over the head of the petitioner for a period of 07 years, the FIR being of February, 2014; that by now, the petitioner has undergone a period of a period of more than 03 months and 15 days and that the petitioner is a first offender, I am of the opinion that the ends of justice will be adequate met if the sentence of one year's rigorous imprisonment awarded to the petitioner is reduced to the period already undergone by him, and the fine is enhanced from Rs.500/- to Rs.10,000/-. Ordered accordingly. The petitioner, who is in custody, be released forthwith in this case, if not required in any other case, but subject to the deposit of enhanced fine amount with the trial court within a period two months from the date of receipt of a copy of this order. In case the petitioner fails to deposit the amount of enhanced fine, as mentioned above, he shall undergo rigorous imprisonment for two months.

Disposed of with the above modification.

13.07.2021
ishwar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No