

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRR-1080-2021(O&M)

Date of decision : 06.12.2021

Simranjit Singh @ Soma

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms.Puja Chopra, Advocate
for the petitioner.

Mr.Sukhbeer Singh, AAG Punjab.

VIKAS BAHL, J.(ORAL)

Challenge in the present revision petition to the judgment dated 04.12.2017 vide which the Judicial Magistrate Ist Class, Patiala, had convicted the petitioner under Section 25(1b)(a) of the Arms Act, 1959 and had sentenced the petitioner to undergo rigorous imprisonment for one year and also to pay fine of Rs.500/- and in default of the same, to further undergo imprisonment for one week. Challenge is also to the order dated 24.08.2021 vide which the appeal filed by the petitioner has been dismissed and the conviction as well as sentence has been upheld.

The brief facts of the prosecution case are that on 01.04.2014, when the police party was present at Dakala Octroi Post, near Sheesh Mehal, Patiala in search of bad elements, then at about 1.00 PM, one young gentleman came from the side of Nadi Banna and on seeing the police party, he tried to flee away from the spot. With the help of police party, the said

person was apprehended. He disclosed his name as Simranjeet Singh @ Soma and upon his checking, one country made pistol .315 bore and one live cartridge was recovered from him. Thereafter, ruqa was sent to the police station on the basis of which FIR was registered. Site plan of the place of recovery was prepared. After investigation, challan was presented. The charge was framed under Section 25 of the Arms Act. The prosecution examined six witnesses.

PW-1 HC Mukhman Singh had stated that investigation was marked to him on 15.01.2014 and the live cartridges were sent to the FSL for report and the FSL report was proved by him as Ex.PW1/A. He had further stated that weapon after its production was deposited with MHC, PS Kotwali, Patiala. He identified the petitioner, who was present in the Court, as the accused person.

PW-2 ASI Harjit Singh was the investigating officer in the present case and he was the one, on whose statement the criminal law was set into motion. He had given the details with respect to the recovery and proved the recovery memo of the country made pistol and two live cartridges as PW2/B and the case property, which was country made pistol . 315 bore as Ex.MO1 and two live cartridges as Ex.MO2 and also further identified the petitioner present in the Court.

PW-3 HC Surinder Singh and PW-4 ASI Subha Singh had also fully supported the case of the prosecution. PW-5 HC Charan Singh had deposed regarding depositing of the case property before FSL, Mohali for testing.

Statement of the petitioner under Section 313 Cr.P.C. was recorded.

The Judicial Magistrate Ist Class, Patiala, after considering the entire evidence and documents on record, had convicted and sentenced the petitioner, as has been detailed hereinabove.

The Additional Sessions Judge, Patiala, after re-appreciating the entire evidence and documents on record, dismissed the appeal filed by the petitioner.

During the course of arguments, learned counsel for the petitioner has submitted that she does not wish to challenge the conviction of the petitioner but would be satisfied that if a lenient view is taken with regard to the sentence which has been awarded to the petitioner. In this regard, it has been submitted that the incident is of the year 2014 and the petitioner has suffered agony of trial/appeal / revision for all these years and it is also submitted that the petitioner is 33 years of age and is the sole bread winner of his family and the petitioner is a poor man and a daily wage labourer. It is further submitted that as per the custody certificate, the petitioner has already undergone a period of 3 months and 23 days of actual custody and has also earned remission of 12 days and thus, the total sentence undergone by the petitioner is 4 months and 5 days out of the sentence period of one year. It is submitted that although, a minimum period of one year has been prescribed but as per the provision of Section 25(1b) of the Arms Act, it has been specifically provided that for adequate and special reasons, which are to be recorded in the judgment of sentence, imprisonment of less than the minimum stipulated of one year period can also be awarded.

Learned counsel for the petitioner has placed reliance upon the judgment of a co-ordinate Bench of this Court dated 17.07.2018 titled as

“Gurvinder Singh vs. State of Haryana”, reported as ***2018(3) Law Herald 2636*** in support of her arguments.

Further reliance has been made on the judgment in ***CRR-1931 of 2010*** decided on 23.07.2019 titled as ***Chander Bhan Vs. State of Haryana*** wherein the petitioner had actually undergone sentence of 04 months and 07 days in a case registered under Sections 279 and 304-A IPC, a co-ordinate Bench of this Court had suspended the sentence by imposing a fine of Rs.25,000/- and the judgment of the Hon'ble Supreme Court in ***State of Punjab Vs. Saurabh Bakshi, reported as 2015 (2) RCR (Criminal), 495*** was considered. Further reliance has been placed upon a judgment of this Court in CRR-4830-2016 decided on 08.03.2017 titled as ***“Balwinder Singh @ Binder Vs. State of Punjab”*** in which case also, the sentence was reduced to four months in a case of conviction under Section 279/304-A IPC where rigorous imprisonment was awarded for 02 years. In the said case also, the judgment of the Hon'ble Supreme Court in ***Saurabh Bakshi's*** case (*supra*) was considered. Further, reliance has also been placed upon case of ***Jaswant Singh Vs. State of Punjab, CRR-1239-2012*** decided on 29.08.2019, reported as ***2020 (1) RCR (Criminal) 163***, in which also after taking into consideration the judgment of the Hon'ble Supreme Court in ***Saurabh Bakshi's*** case (*supra*), the sentence was reduced to already undergone.

Learned State counsel has opposed the petition and submitted that the judgments of both the Courts below are well reasoned and have been rightly passed after taking into consideration the entire evidence and the material on record.

This Court has heard the learned counsel for the parties and has perused the record.

As far as the conviction of the petitioner is concerned, both the

Courts below had considered the entire material on record and have concurrently found that the petitioner is guilty of offence under Section 25(1b) (a) of the Arms Act, 1959. PW-1 Mukhman Singh had specifically proved the FSL report Ex.PW1/A. PW-2 ASI Harjit Singh who was Investigating Officer, had proved the version of the prosecution and had also proved on record the recovery memo of country made pistol and two live cartridges Ex.PW2/B as well as the case property as Ex.MO1 and Ex.MO2 being the pistol and live cartridges, respectively. PW-3 HC Surinder Singh, PW-4 ASI Subha Singh and PW-5 HC Charan Singh had also fully supported the case of the prosecution. The said witnesses had been cross-examined at length but nothing has come out from their cross-examination so as to demolish the case of the prosecution. Thus, keeping in view the above facts, the conviction of the petitioner under Section 25(1b)(a) of the Arms Act, 1959 and sentence is upheld.

As far as the sentence which has been awarded to the petitioner is concerned, reliance can be placed upon the judgment of a co-ordinate Bench of this Court in ***Gurvinder Singh's*** case (supra). In the said case also, the petitioner therein was convicted under Section 25 of the Arms Act, 1959 for a period of one year and during the course of arguments, the conviction of the petitioner was not challenged and after considering various judgments including judgment of the Hon'ble Supreme Court, the sentence was reduced from one year to the period already undergone, which was 3 months and 10 days. The relevant part of the said judgment is reproduced hereinbelow:-

*“13. Hon'ble Supreme Court in **Harjit Singh Versus State of Haryana, (2002) 10 SCC 695** had reduced the sentence of 7 years under Section 25 of the Act to the period already undergone (more than 5 years) by the accused. Similarly, in the case of **Kirpal Singh Versus State of Punjab 2009(1) AICLR 243**, this Court, taking into consideration the fact that*

*petitioner has three children; there is no one to look after his family and has already undergone sentence of more than 5 months out of total sentence of one year, had reduced the sentence of petitioner to the period already undergone by him. Moreover, in the cases of **Shiv Kailash Versus The State of Punjab 2016(5) RCR (Criminal) 438; Jagdeep Singh @ Neetu Versus State of Punjab, 2013(2) Law Herald 1849 and Sukhdev Singh Versus State of Punjab 2005(4) RCR (Criminal) 694**, similar view has been adopted by this Court.*

14. Therefore, taking into consideration the pleas of petitioner and also the judgments referred hereinabove, the sentence imposed upon the petitioner under Section 25 of the Arms Act is reduced to the period already undergone by him subject to payment of fine of Rs.5,000/- instead of Rs.500/- as imposed by learned trial Court and affirmed by learned appellate Court.

15. Perusal of the impugned judgment dated 21.10.2009 passed by learned trial Court reveals that the fine of Rs.500/- imposed by the trial Court has already been deposited by the petitioner. Therefore, the petitioner is directed to deposit the enhanced amount of fine of Rs.4,500/- with the Court of Chief Judicial Magistrate, Fatehabad within a period of one month from today, failing which the present revision petition shall be deemed to be dismissed in toto.

16. With the aforesaid modification in the sentence, the present revision petition stands dismissed.”

In the present case, the incident is of the year 2014 and the petitioner has suffered agony of trial / appeal / revision for all these years and the petitioner is stated to be 33 years old, and is the sole bread winner of his family, and is a poor person being a daily wage labourer and has already undergone period of 3 months and 23 days of actual custody and has earned

by the petitioner is 4 months and 5 days out of sentence period of one year.

Learned counsel for the petitioner has fairly submitted that as far as conviction is concerned, the same has not been challenged. Thus, in view of the above stated factors, the sentence awarded to the petitioner is reduced from one year to six months and although, this Court is aware about the provision of Section 25(1B) of the Arms Act that minimum sentence awarded is one year but the same is being done keeping in view the year of the incident, i.e. of the year 2014 and for adequate and special reasons, the said sentence awarded could be less than the period of one year. The said reduction of sentence from one year to six months is subject to the petitioner depositing an amount of Rs.10,000/- with the High Court Lawyers Welfare Fund within a period of two months from today.

With the above observations, the present petition is disposed of.

It is made clear that in case the said amount of Rs.10,000/- is not deposited within the aforesaid stipulated period, then the present petition would be deemed to have been dismissed.

As the main petition is decided, application for suspension of sentence is disposed of having been rendered as infructuous.

(VIKAS BAHL)
JUDGE

December 06, 2021

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No