

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

**CRR No. 2835-2019 (O&M)  
Date of Decision: 19.08.2021**

**Mohan Singh**

**...Petitioner**

**Versus**

**State of Punjab**

**...Respondent**

**CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. Ashok Giri, Advocate  
for the petitioner.

Mr. H. S. Multani, AAG, Punjab.

(Through Video Conferencing)

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**ARVIND SINGH SANGWAN, J. (Oral)**

Prayer in this revision petition is for setting aside the judgment of conviction and order of sentence dated 03.10.2018 passed by the Chief Judicial Magistrate, Rupnagar vide which, the petitioner was held guilty for commission of offence punishable under Section 25 of the Arms Act and was sentenced to undergo rigorous imprisonment for a period of 03 years and to pay a fine of Rs.2,000/- and in default of payment of the fine, the petitioner was directed to further undergo rigorous imprisonment for a period of one month; as well as the judgment dated 13.09.2019 passed the lower appellate Court vide which, while allowing the appeal of co-accused namely Nathu Khan, the appeal of petitioner Mohan Singh was dismissed.

Learned counsel for the petitioner submits that as per the allegation in the FIR No.213 dated 30.10.2014, registered under Section 25

of the Arms Act at Police Station City Rupnagar, it is stated that on 30.10.2014, ASI Tarlochan Singh/Investigating Officer along with the other police officials were on a patrol duty when they received a secret information that petitioner Mohan Singh and co-accused Nathu Khan, who are the tenants of one Bhupinder Singh, resident of Rupnagar, are habitual of smuggling country-made pistols, which are brought from Uttar Pradesh along with live cartridges to Punjab. On receiving the information, a *ruqa* was sent to the Police Station for registration of the FIR under Section 25/54/59 of the Arms Act and thereafter, a raid was conducted on 30.10.2014 and both the accused were arrested and one pistol along with two live cartridges of .12 bore were recovered from them. The same was then sent to the Forensic Science Laboratory, SAS Nagar.

On completing the investigation, the *challan* was presented and the trial Court framed the charge under Section 25/54/59 of the Arms Act. The prosecution recorded the statement of PW-1 ASI Jasmer Singh who proved the case property which was deposited with the FSL, PW-2 ASI Davinder Kumar stated that he has deposited the case property, PW-3 ASI Tarlochan Singh/Investigating Officer deposed the manner in which the investigation was conducted and the accused were arrested and country-made pistol was recovered. Some of the witnesses were given up by the public prosecutor being unnecessary. Thereafter, the statements of accused were recorded under Section 313 Cr.P.C., however, they did not examine any evidence in their defence.

The trial Court, vide impugned judgment of conviction held both the accused guilty of offence under Section 25 of the Arms Act and sentenced them to undergo 03 years of rigorous imprisonment and to pay a

fine of Rs.2,000/- each and in default of payment, to further undergo rigorous imprisonment for a period of one month as noticed above.

Thereafter, both the accused filed the appeal before the lower appellate Court and submitted that they have been wrongly convicted by the trial Court. The lower appellate Court, vide impugned judgment, acquitted co-accused Nathu Khan, however, dismissed the appeal of the petitioner upholding the judgment of conviction.

Learned counsel for the petitioner further submits that it has come in the report of the FSL that the country-made pistol recovered from the petitioner was not in a working condition and therefore, the Courts below have wrongly held it to be a workable firearm within the meaning of Section 2(e) of the Arms Act.

Learned counsel for the petitioner further submits that the petitioner is facing the trial for the last about 07 years and is not involved in any other case and is a first offender.

Learned counsel for the petitioner further submits that the petitioner is aged about 37 years and has his own family to support and considering the fact that the petitioner has undergone about 01 year 02 months and 23 days of the total sentence out of 03 years of rigorous imprisonment awarded by the trial Court, his sentence may be reduced to the sentence already undergone by him.

Learned counsel for the petitioner relies upon the judgment of the Coordinate Bench in case of *Sikander versus State of Haryana passed in Criminal Appeal No. S-893-SB of 2004*, wherein, while dismissing the appeal against the conviction, the sentence was reduced to the sentence already undergone.

Learned State counsel has filed the custody certificate in Court today and the same is taken on record. Learned State counsel does not dispute the actual sentence undergone by the petitioner, however, submits that the trial Court as well as the lower appellate Court have rightly convicted the petitioner for keeping an illegal firearm in his custody.

After hearing learned counsel for the parties, I find no merit in the main appeal and accordingly, the judgment of conviction is upheld.

However, considering the fact that petitioner is the first offender; he is facing the agony of trial for the last about 07 years; he has not repeated any such or similar offence during the period when he remained on bail before the trial Court as well as the lower appellate Court and has shown a substantive improvement in his character, the sentence awarded to the petitioner is reduced to the sentence already undergone by him.

Since the petitioner is in custody, release warrants be issued immediately with a condition that if he is not involved in any other case, he may be released forthwith.

This revision petition stands disposed of.

**19.08.2021**  
Chetan Thakur

**(ARVIND SINGH SANGWAN)**  
**JUDGE**

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*