

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

CRR-3875-2018 (O&M)

Date of Decision: 19th May, 2022

Sardool Singh alias Doola

... Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Ashok Kumar Khunger, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

AVNEESH JHINGAN , J.(Oral)

1. This revision petition is filed aggrieved of order dated 23rd October, 2018 whereby the recovery of fine was not stayed and sentence of the petitioner was suspended subject to deposit of the fine amount of Rs.2,00,000/-.

2. The petitioner was convicted under Section 61(1) of Punjab Excise Act vide judgement dated 11th October, 2018 and vide order of even date was sentenced for two years rigorous imprisonment and to pay a fine of Rs.2,00,000/-. In case of default of payment of fine further to undergo rigorous imprisonment for three months.

3. Appeal was filed accompanied by application for stay of recovery of fine and suspension of sentence. The Appellate Court considering that the heavy amount of fine has been imposed the same was not stayed. The sentence of suspension was made subject to deposit of the fine along with furnishing of surety bonds.

4. Learned counsel for the petitioner relies upon the provisions of Section 357(2) Cr.P.C and submits that impugned order is passed in violation of the provisions of Section 357(2) Cr.P.C .

5. In view of the clear statutory provisions learned State Counsel is not in a position to defend the impugned order.

6. Section 357(2) Cr.P.C. is quoted below:-

“ (2) if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or if any appeal be presented, before the decision of the appeal. ”

7. As per the Sub-section 2 of Section 375 Cr.P.C., it is clear that in case appeal is filed no fine is to be paid before the decision of the appeal.

8. The order dated 23rd October, 2018 is modified to the extent that the sentence of petitioner shall remained suspended during the pendency of the appeal, subject to furnishing of bail bonds of a sum of Rs.50,000/- with surety in the like amount to the satisfaction of the trial Court. The recovery of fine shall remain stayed during the pendency of the appeal.

9. The petition is allowed.

(AVNEESH JHINGAN)
JUDGE

19th May, 2022
Parveen Sharma

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No