

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(226)

CRR-605-2021 (O&M)
Date of Decision: 01.03.2023

Gurdeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. K. B. S. Mann, Advocate, for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

HARKESH MANUJA, J.(ORAL)

By way of present revision petition, challenge has been made to the judgment dated 19.02.2020 passed by the Court of Additional Sessions Judge, Bathinda, upholding the conviction of the petitioner under Section 61(1)(a) of the Punjab Excise Act, 1914, having affirmed the judgment dated 24.01.2019 passed by the JMIC, Bathinda.

In the present case, petitioner was implicated as an accused in case FIR No.171 dated 07.07.2017 registered at P.S. Nathana, Bathinda, under Section 61(i)(a) of Punjab Excise Act, 1914. Upon trial, petitioner was convicted vide judgment dated 24.01.2019 passed by the Court of Judicial Magistrate 1st Class, Bathinda and was sentenced to undergo rigorous imprisonment for a period of 2 years besides payment of fine of Rs.1 Lakhs and in case of default to undergo further simple imprisonment for a period of 6 months.

Aggrieved thereof, the petitioner filed first appeal, however, the same was dismissed vide judgment dated 19.02.2020 passed by the Court of Additional Sessions Judge, Bathinda. The present revision petition has been

filed impugning the aforesaid two decisions.

While making his submissions, learned counsel for the petitioner argues that the present revision is not being pressed on merits as he has already moved an application under Section 427 Cr.P.C. with a prayer for issuance of directions to order that the sentence awarded in the present case should run concurrently with the sentence awarded vide another judgment dated 19.02.2020 passed by the Court of Additional Sessions Judge, Bathinda, arising out of the trial from FIR No.157 dated 16.07.2016 recorded under Section 61(i)(c) of Punjab Excise Act, 1914, regarding which Criminal Revision No.602 of 2021 is pending before this Court.

Learned counsel for the applicant/petitioner submits that against the order of sentence of 2 years awarded vide judgment dated 24.01.2019, arising out of FIR No.157 dated 16.07.2016 pertaining to CRR No.602 of 2021, the petitioner has already undergone the sentence for a period of 1 year and 07 months and 24 days. He further submits that petitioner is 45 years of age and post registration of FIR No.171 dated 07.07.2017; he never indulged himself in any other criminal activity. He also submits that petitioner is the only earning member of the family. Learned counsel also places reliance upon the judgments passed by this Court in cases of **Brahmjit Vs. State of Punjab and another**, 2014(2) R.C.R. (Criminal) 184, **Santam Singh alias Santu Vs. The State of Haryana**, 2003(3) R. C. R. (Criminal) 461 and **Baljinder Singh Vs. State of Haryana and another**, 2007 (2) R. C. R. (Criminal) 207.

On the other hand, learned State counsel submits that petitioner appears to be habitual offender as previously also he was involved in one another case of similar nature, though, the same resulted into his acquittal vide judgment dated 29.05.2019.

I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

A perusal of the record shows that post registration of FIR No.171 dated 07.07.2017 petitioner has never indulged himself in any criminal activity. Considering the age of the petitioner and the fact that petitioner is the sole earning member in the family, besides, the nature of offence committed by him the same being under the Punjab Excise Act, 1914, as well as the law cited hereinabove, while invoking the powers under Section 427 Cr.P.C., the prayer made in the application is allowed and sentence awarded to the petitioner vide judgment dated 19.02.2020 passed in the present case is ordered to run concurrently with the sentence awarded to the petitioner vide judgment of even date, arising out of the trial in FIR No.157 dated 16.07.2016.

It is however, made clear that the fine imposed against the petitioner as well as default clause (sentence) are maintained as such.

Revision petition disposed of accordingly.

(HARKESH MANUJA)
JUDGE

01.03.2023
anil

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No