

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRR-2723-2022(O&M)

Date of Decision:-23.02.2023

Ravi Kumar.

.....Petitioners.

Versus

State of Punjab.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Barjinder Singh, Advocate for the Petitioner.

Ms. Navreet Kaur Barnala, Assistant Advocate General,
Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The present revision petition has been preferred against the order dated 14.11.2022 passed by the court of Additional Sessions Judge, Sangrur in case FIR No.38 dated 20.04.2015 under Sections 61/1/14 of Punjab Excise Act registered at Police Station Longowal.

2. The petitioner and his co-accused were convicted under Section 61 (1)(a) of Punjab Excise Act, 1914 vide judgment dated 19.09.2022 and vide order of even date 19.09.2022, and were sentenced to a period of 02 years rigorous imprisonment and to pay a fine of Rs.1 lacs and in default of payment of fine he was to further undergo RI for 01 month. An appeal was preferred accompanied by an application for stay of recovery of fine and suspension of sentence. The appellate court suspended the substantive

sentence of the petitioner and his co-convict during the pendency of the appeal and ordered them to be released on bail but subject to the deposit of the fine amount and on furnishing bail bonds in the sum of Rs.50,000/- each with one surety of the like amount to the satisfaction of the Illaqa/Duty Magistrate.

3. It is this order which is under challenge before this Court in the present revision petition.

4. The learned Counsel for the petitioner/convict-Ravi Kumar while relying upon the provisions of Section 357(2) Cr.PC submits that the impugned order could not have been passed asking the petitioner to deposit the amount in view of the statutory provisions. Reliance is placed on the order of this Court passed in ***Sardool Singh @ Doola Vs. State of Punjab CRR-3875-2018(O&M) Decided on 19.05.2022***. He also states that in the case of Vikram Kumar the prayer has been allowed vide order dated 30.01.2023.

5. The Counsel for the State has very fairly conceded that the impugned order was liable to be set aside.

6. I have heard learned Counsel for the parties.

7. Section 357(2) CR.PC is reproduced 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.”

8. As per Sub Section 2 of Section 357 Cr.PC, it is clear that in case an appeal is filed no fine is to be paid before the decision of the appeal.

9. In view of the above discussion, the order dated 14.11.2022 is modified to the extent that the sentence of the petitioner shall remain

suspended during the pendency of the appeal subject to furnishing of bail bonds for a sum of Rs.50,000/- with one surety in the like amount each to the satisfaction of the Illaqa Magistrate/Duty Magistrate. The recovery of fine shall remain stayed during the pendency of the appeal.

10. The petition is allowed in the aforesaid terms.

(JASJIT SINGH BEDI)
JUDGE

February 23, 2023
Vinay

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