

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRR-1956-2008 (O&M)
Date of decision : 07.03.2024

Sushil

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present :- Mr. Jai Bhagwan Sharma, Advocate for the petitioner.
Mr. Ashok Kumar Sehrawat, DAG Haryana.

PANKAJ JAIN, J. (Oral)

CRM-43714-2008

Allowed as prayed for.

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1. This revision has been filed against the judgment dated 01.09.2008 passed by Sessions Judge, Jind and judgment dated 16.11.2007 passed by Judicial Magistrate, 1st Class, Jind convicting the petitioner for offences punishable under Section 25 (1-B)(a) of Arms Act, 1959 and sentenced him to undergo as under:-

Section (Arms Act)	Rigorous Imprisonment	Fine (in Rs.)	In default of payment of fine (rigorous imprisonment)
25	1 year	1,000/-	1 month

2. The petitioner was booked in the FIR No.487 dated 21.11.2001 under Section 25 of the Arms Act, 1959 registered at Police Station City Jind. As per the same on 21.11.2004, when the police party was patrolling, they found movement of a person to be suspicious. Therefore, petitioner was apprehended and on his personal search

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one .315 bore pistol loaded with live cartridges was recovered from the right dab of the trouser. After completion of necessary investigation, police challan under Section 173 Cr.P.C. was presented.

3. Trial Court after appreciating the evidence on record, came to the conclusion that the prosecution has proved its case beyond reasonable doubt and thus, convicted him for offences punishable under Section 25 (1-B) (a) of the Arms Act, 1959.

4. Petitioner preferred an appeal before the lower Appellate Court. The Appellate Court found that the judgment and order of sentence passed by the trial Court does not suffer from any infirmity and consequently, dismissed the appeal.

5. Counsel for the petitioner contends that the prosecution story is based only on evidence of official witnesses and no independent/private witness joined despite the fact that the alleged place of arrest of appellant was a public place. He further submits that the Appellate Court has overlooked the fact that there was an unexplained delay of 5 days in testing the pistol and cartridge for the purpose of finding out as to whether the pistol recovered from him was actually a weapon or not. Therefore, there are many discrepancies and contradictions in the evidence. He further submits that there was no motive or intention of the petitioner to have pistol and cartridge without licence or with licence. He is a first time offender and sole bread earner of his family. He submits that apart from this case, there is no other case pending against the petitioner. Thus, he argues that the Court may draw an adverse inference and extend benefit of doubt to the petitioner.

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6. I have heard counsel for the parties and have gone through the records of the case.

7. After going through records of the case, this Court finds that neither any independent witness was examined nor an attempt was made to join any person. Court also cannot turn blind eye to the fact that petitioner was apprehended from a public place i.e. bus stand which is not only crowded by general public but also must be having office of state transport from where responsible Public officer could have been asked to join as an independent witness.

8. Section 25 of the Arms Act which provides for punishment of offences committed under this Act mandates that an offence shall be punishable with not less than 2 years of punishment which may extend to 5 years. But the proviso clothes the Court with power to impose a sentence of less than 2 years for any adequate and special reasons to be recorded.

9. In the present case, the petitioner was a young boy at the time of offence. He is the sole bread earner of his family. He suffered ordeal of prolonged prosecution for more than 20 years. Therefore, I deem it appropriate to reduce the sentence of the petitioner to that he has already undergone while holding his conviction.

10. Ordered accordingly.

11. Revision petition stands disposed off.

(PANKAJ JAIN)
JUDGE

07.03.2024

spn

Whether speaking/reasoned
Whether Reportable :

Yes
No