



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

SR. No.253

**CRR-1990-2008 (O&M)
Date of decision:11.11.2024**

Krishan Singh @ Gopa

...Petitioner

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr.Abhishek Singla, Advocate for the petitioner.
Mr.M.S. Bajwa, DAG, Punjab.

N.S. SHEKHAWAT, J.

1. The petitioner has filed the present revision petition against the judgment 12.09.2008 passed by the Additional Sessions Judge, Bathinda and the judgment of conviction and order of sentence dated 06.06.2008 passed by the Judicial Magistrate 1st Class, Bathinda, whereby, the petitioner had been convicted for the offence punishable under Sections 25 of the Arms Act and sentenced to undergo rigorous imprisonment for a period of 01 year and to pay a fine of Rs.1,000/- along with default stipulation.

2. At the outset, learned counsel appearing on behalf of the petitioner submitted that he does not wish to challenge the judgment of conviction, however, some leniency may be shown, while awarding the sentence to the petitioner. Even though, learned counsel for the petitioner has not challenged the judgment of conviction, still this Court is proceeding to



examine the evidence in the present case in the light of the settled canons of law.

3. Brief facts of the case, as noticed in para 2 of the impugned judgment dated 12.09.2008 passed by the Additional Sessions Judge, Bathinda, are as under:-

2.as per the case of the prosecution, Sub Inspector Rajinder Kumar of C.I.A. Staff, Bathinda accompanied by his fellow official were coming via Naruana road to 'T' point Badal Road, Bathinda after some secret investigation. At 'T' point ASI Jagdish Kumar, Incharge Police Post, Vardhman and some other police officials met them. Sub Inspector joined them and started checking In the meanwhile, Bhupiner Singh Bhinder son of Diwan Singh, Market, of alias resident of Dhillon Bathinda met the police party. In the meanwhile, two persons were seen coming on the road from Naruana side. Finding a police party in front of them, they got puzzled and tried to run away. One of them was apprehended by ASI Jagdish Kumar and the second person accused Krishan Singh alias Gopa was apprehended by the police party headed by SI Rajinder Kumar. After interrogating the accused about his name and address, the personal search of the accused was done, on which one country made pistol, in working order along with two cartridges of .12 bore, was recovered. The rough sketch of the pistol Ex.PE was prepared. Accused could not produce any licence to keep the arms. The pistol was taken into possession through recovery memo Ex.



PA. The pistol and the cartridges were separately packed into parcel and sealed with seal 'RK' of SI Rajinder Kumar. Seal after use, was handed over to Bhupinder Singh alias Bhinder, independent witness. During the investigation, the sanction of the Additional District Magistrate Ex.PW.3/A was obtained and after completion of investigation, the challan was presented in the court.

4. After presentation of challan, charge under Section 25 of the Arms Act was framed against the accused-petitioner, to which he pleaded not guilty and claimed trial.

5. In support of its case, the prosecution examined five witnesses, namely, SI Rajinder Kumar as PW-1, HC Joginder Singh, as PW-2, Ajit Singh, Jr. Assistant as PW-3, HC Rajinder Singh as PW-4 and HC Tarjinder Singh as PW-5.

6. After closure of the prosecution evidence, the statement of accused/petitioner was recorded under Section 313 Cr.P.C. and the entire evidence was put to him. However, he denied the prosecution evidence and claimed false implication.

7. In his defence, only one witness, namely, Roshan Lal was examined as DW-1 by the petitioner and defence evidence was closed.

8. The only submissions made before both the courts below was with regard to contradictions between the statements of SI Rajinder Kumar PW-1 and recovery witness HC Tarjinder Singh, PW-4. It was argued that there were material contradictions with regard to the place of writing, place of recovery and handcuff.



9. Both the courts below have discussed the said contradictions in the impugned judgments and the plea has been rejected, after appreciating the evidence. Still further, all the prosecution witnesses were subjected to cross-examination and nothing material could be found, which could shatter their testimonies in any manner. Even pistol was taken out of the armour and it was found to be in working order. Even the report of armour was on record in the present case. Still further, non-examination of independent witness in the present case would not be fatal, as the official witnesses had no reason to falsely involve the accused-petitioner in a criminal case. Thus, it is apparent that the impugned judgments passed by both the courts below are based on correct appreciation of evidence and the law and there is no illegality in both the judgments.

10. Now adverting to the sentence, it is apparent from the record that the petitioner is facing prosecution since 15.11.2002, i.e. for the last about 22 years. Even as per record, the petitioner was aged about 28 years at the time of filing of the revision before this Court, which means that at the time of commission of offence, the petitioner was only 22 years old. Apart from this, it is also apparent from the custody certificate that petitioner has already undergone 05 months and 02 days of sentence (including remissions) out of total sentence of 01 year. Thus, it would be inappropriate to send the petitioner behind bars after a gap of 22 years of commission of offence by him. Even otherwise, the petitioner has undergone a substantial period of his total sentence and thus, in view of the facts and circumstances of the case, the ends of justice would be suitably met, if his substantive sentence is reduced to the one already undergone by him.



11. Keeping in view the above discussion, the judgments of conviction passed by the courts below are upheld, however, order of sentence dated 06.06.2018 is modified to the extent that the substantive sentence of imprisonment awarded by the courts below is reduced to the period already undergone by the petitioner. However, sentence of fine is increased to Rs.25,000/- which shall be deposited by the petitioner in the account of Punjab and Haryana High Court Bar Clerks' Association within a period of three months today. The petitioner may be released forthwith from the custody, if not on bail and if not required in any other case.

12. With the above modification, the present appeal stands disposed of, in the above terms. Pending application(s), if any, shall also stand disposed of, accordingly.

(N.S. SHEKHAWAT)
JUDGE

11.11.2024
mks

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO