

received a secret information that petitioner-Prem Chand son of Dogar Dass resident near Ram Mandir Patiala Gate, Sangrur, now residing in the house of Ishwar Chander son of Bodha Ram resident of House no.26 near Jawahar Sweet Police Station City, Sangrur, is habitual of selling the country made liquor by bringing it from Haryana. On that day also, he had kept the huge quantity of the bottles of country made liquor in the adjoining house of his rented accommodation and he can be caught red handed. The information being reliable, HC Ranjit Singh sent ruqa through PHG Baljinder Singh for registration of FLR, on the basis of which, F.L.R was registered against the petitioner. Thereafter, HC Ranjit Singh alongwith police party raided the disclosed place by secret informer. The petitioner was found sitting on the floor who was found counting the bottles of country made liquor. Petitioner was apprehended by HC Ranjit Singh with the help of police party. On interrogation, he disclosed his name Prem Chand son of Dogar Dass, resident near Ram Mandir Patiala Gate, Sangrur now residing in the house of Ishwar Chand son of Bodha Ram, resident of House No.261, near Jawahar Sweet, Sangrur. On checking of the plastic bag recovered in possession of the petitioner, 108 bottles of country made liquor Make Malta Haryana. HC Ranjit Singh arranged one tub and poured all the bottles in the tub and drew the sample of 180 ml. HC Ranjit Singh also arranged two plastic cans of 50 litres each. He poured 54 bottles of country made liquor in one plastic can and further poured quarter to 54 bottles in the other plastic can. Both the cans were marked as serial no.1 and 2 respectively. The empty 108 bottles were put in the plastic bag and converted into the parcel. Thereafter, HC Ranjit Singh sealed both the plastic cans, sample and parcel containing 108 empty bottles with his seal bearing impression 'RS'. Sample seal was prepared separately and handed over to HC Surjit Singh. Then entire case property including sample seal was

taken into police possession by HC Ranjit Singh. Site plan of the place of recovery was prepared. Petitioner was arrested. Statements of the witnesses under Section 161 Cr.P.C were recorded. On receipt of report of Chemical Examiner and completion of investigation, challan against the accused was presented in the Court.

3. The petitioner was convicted vide judgement dated 03.12.2022 by the learned trial Court which has also been upheld by lower Appellate Court vide judgment dated 18.04.2023.

4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 03.12.2022 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by the petitioner as he has already undergone a period of 10 months and 07 days.

5. Per contra, learned State counsel opposes the prayer of the petitioner as the learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record which has also been upheld by the learned lower Appellate Court and as such, he does not deserve any leniency.

6. I have heard learned counsel for the parties and perused the record with their able assistance.

7. In ***Deo Narain Mandal v. State of UP (2004) 7 SCC 257***, a Three Judge Bench of the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, manner in which the offence is committed, age of the accused, should be considered while

determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient. Further, a two Judge Bench of the Hon'ble Supreme Court in ***Ravada Sasikala v. State of AP AIR 2017 SC 1166***, has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realise the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

8. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Learned counsel for the petitioner has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua quantum of sentence.

9. The FIR in the present case was lodged on 02.11.2017 and the petitioner has been suffering the agony of protracted trial for more than 06 years. Since his conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate, he has undergone actual sentence of 09 months and 17 days out of total sentence of 02 years in the instant case.

10. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the petitioner is reduced to the

period already undergone by him.

11. Consequently, the present appeal is disposed of in the following terms:-

(i) The judgment dated 18.04.2023 passed by the learned Additional Sessions Judge, Sangrur, affirming the judgment of conviction is upheld, however, the order of sentence dated 03.12.2022 is modified to the extent that the sentence of rigorous imprisonment for 02 years along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) The sentence of fine of an amount of Rs.2,00,000/- imposed upon the petitioner by the trial Court shall remain intact. The petitioner is directed to deposit the amount of fine in the trial Court within one month from the date of receipt of certified copy of this order and in case of default of payment of fine, the appellant/petitioner shall be liable to be taken into custody and made to undergo rigorous imprisonment for one month.

12. Pending miscellaneous application(s), if any, shall also stand disposed of.

March 20, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No