

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRR-4509-2016
Date of decision : 22.04.2024

Feroj Tyagi Petitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Prarthana Duggal, Advocate for
Mr. Namit Khurana, Advocate
for the petitioner.

Mr. Mohit Kapoor, Sr. DAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. This revision has been filed against the judgment dated 03.11.2016 passed by Additional Sessions Judge, SAS Nagar Mohali whereby the judgment and order dated 01.04.2014 passed by the Judicial Magistrate 1st Class, Dera Bassi and conviction of the petitioner for offences punishable under Sections 61/1/14 of Punjab Excise Act has been affirmed. He has been sentenced as under:-

Section (Punjab Excise Act)	Simple Imprisonment	Fine (in Rs.)	In default of payment of fine (simple imprisonment)
61/1/14	6 months	2,000	01 month

2. As per prosecution version on 21.12.2009, police party headed by HC Rajinder Singh was present on ITI chowk, Lalru for the purpose of checking. In the meantime, an Ambassador car of while colour

came from the side of Chandigarh. On checking, 264 plastic bottles of liquor make Theka Angreji Bagpiper for sale in UT-Chandigarh were recovered lying beneath the front and behind seat of the car. The driver of the car revealed his name as Feroz Tyagi. He failed to produce any licence or permit. The case property and sample was sealed by the investigating officer with his seal and were taken into possession. Accused was arrested. Statements of the witnesses were recorded. After completion of necessary formalities of the investigation, challan against the accused was prepared and presented in the Court.

3. Trial Court after appreciating the evidence on record, came to the conclusion that the prosecution has proved its case beyond doubt. The recovery was heavy and the accused has possessed the recovered liquor without any permit or licence and thus, convicted him for offences punishable under Sections 61/1/14 of Punjab Excise Act.

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

5. Counsel for the petitioner contends that the petitioner 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 prays that a lenient view be taken against the petitioner especially in the light of the fact that he is facing protracted trial for last about 15 years.

6. Learned State counsel submits that both the Courts below have rightly found petitioner guilty of offences punishable under Section

61/1/14 of Punjab Excise Act. More so, accused was apprehended with heavy quantity without any permit or licence.

7. I have heard learned counsel for the parties and have carefully gone through the record of the case. The recovery of liquor from the accused is proved from the version of IO PW 2 and witness of recovery PW1. All the incriminating circumstances have been duly proved against the petitioner. Hence, conviction of the petitioner is upheld.

8. However, it can not be lost sight of the fact that he has already undergone actual sentence of more than 3 months and 28 days out of 06 months. He is a first time offender. There is no case pending against him. He is stated to have never misused concession of bail suspension of sentence. He has already faced protracted trial for last 15 years. Considering all these facts cumulatively, sentence awarded by the Courts below is modified to already undergone.

9. Disposed off accordingly.

(PANKAJ JAIN)
JUDGE

22.04.2024
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No