

2025 PHHC-020335



256

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

CRR-322-2023

Date of Decision:11.02.2025

Bhinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. B.S. Jatana, Advocate for the petitioner.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision petition has been preferred against the judgment dated 06.01.2023 passed by learned Additional Sessions Judge, Mansa vide which, judgment of conviction and order on quantum of sentence dated 12.02.2018 passed by learned Judicial Magistrate Ist Class, Mansa in case bearing FIR No.29 dated 23.04.2015 under Section 61 of the Punjab Excise Act registered at Police Station Kot Dharmu, District Mansa, have been upheld.

2. The petitioner was sentenced as under:

Offence u/s	Sentence	Fine	In default of payment of fine
61(1)(a) of the Punjab Excise Act	To undergo RI for 01 year	Rs.500/-	To undergo R.I. for a period of one month.

3. Brief facts of the case are that on 23.04.2015 HC, Nazar Singh along with police party were going in connection with patrolling. When, they were present near the bus stand of village Moosa, secret information was received that Bhinder Singh (petitioner) son of Nahar Singh, resident of Ramdittewala is habitual of selling country made liquor in his house by

bringing the same from outside. If raid is conducted at his house, recovery of huge quantity of country made liquor can be effected. Considering, the information as reliable, ruqa was sent to police station for registration of the FIR against the accused-petitioner. Police party raided the house of accused-petitioner. Accused-petitioner was found present in his house and he was pouring the liquor into bottles from plastic can. On checking of the plastic can, country made liquor was found. One sample of 180 ML was separated from the plastic can. On measurement, remaining country made liquor was found to be 59^{3/4} bottles. HC, Nazar Singh sealed the case property/sample with his seal bearing impression NS. Accused-petitioner was arrested. After completion of necessary investigation, challan was presented against the accused.

4. The petitioner was convicted and sentenced vide judgment and order dated 12.02.2018 passed by learned trial Court, which have also been upheld by learned lower Appellate Court vide judgment dated 06.01.2023.

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 06.01.2023 on merits and restricts his prayer to modification of the order on quantum of sentence to that of the sentence already undergone by the petitioner. Petitioner has undergone a total period of 02 months and 14 days.

6. *Per contra*, learned State counsel opposes the prayer of the petitioner as 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.

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

8. 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.

9. 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. Moreover, learned counsel for the petitioner has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua modification of quantum of sentence.

10. The FIR in the present case was lodged on 23.04.2015 and the petitioner has been suffering the agony of protracted trial for last more than 09

years. Since his conviction, the petitioner has grown into law-abiding citizen and desire to live a peaceful life. As per his custody certificate, he is not involved in any other case and has undergone total sentence of 02 months and 14 days, including remission out of total sentence of one year, in the instant case.

11. 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.

12. Consequently, the present petition is disposed of in the following terms:-

(i) The judgment dated 06.01.2023 passed by the learned Additional Sessions Judge, Mansa, affirming the judgment of conviction is upheld, however, the order of sentence dated 12.02.2018 is modified to the extent that the sentence of rigorous imprisonment for one year along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him. Fine of Rs.500/- imposed upon the petitioner is enhanced to Rs.2000/-

(ii) 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 petitioner shall be liable to be taken into custody and made to undergo rigorous imprisonment for one month. Fine amount, if already deposited, be adjusted.

11.02.2025

Parveen kumar

**(HARPREET SINGH BRAR)
JUDGE**

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