



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

201

CRR-1193-2007 (O&M)
Date of Decision: 30.07.2025

Gurmail @ Mela

...Petitioner

V/s

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. P.S.Brar, Advocate,
for the petitioner.

Ms. Shiny Chopra, AAG, Punjab.

VIKRAM AGGARWAL, J (ORAL)

The present revision petition assails the judgment dated 08.06.2007, passed by the Court of Additional Sessions Judge, Moga vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 12.10.2006, passed by the Court of Sub-Divisional Judicial Magistrate, Zira, in case FIR No.135 dated 29.08.1997, registered under Section 61 of the Punjab Excise Act, 1914 (hereinafter referred to as the "Excise Act") at Police Station Kot Ise Khan, was dismissed.

2. Vide judgment of conviction dated 12.10.2006, the Court of Sub-Divisional Magistrate, Zira convicted the petitioner under Section 61(1)(c) of the Excise Act. Vide order of sentence of even date, the petitioner was sentenced to undergo rigorous imprisonment for a period of one year and a fine of Rs.5000/- was also imposed. In default of payment of fine, the petitioner was ordered to undergo further rigorous imprisonment for two months.



3. The brief facts of the case are that ASI Gurcharan Singh along and other police officials, were on patrolling duty and had reached about half kilometer ahead of the Govt. High School in the area of Village Fatehgarh Korotana, where on having received secret information, they conducted a raid and found the present petitioner distilling illicit liquor by way of operating working still in his residential house in the area of Village Fatehgarh Korotana. In the said raid, a private person namely Lal Singh, Ex-Sarpanch, was also joined by the police as an independent witness. The petitioner was apprehended. On inquiry, he disclosed his name as Gurmail Singh @ Mela son of Jangir Singh, resident of Village Fatehgarh Korotana, Moga. A drum containing 25 kgs. of lahan was recovered from the possession of the petitioner. After completion of investigation, final report under Section 61 of the Excise Act was prepared and submitted to the Court. Charges were framed against the accused-petitioner, to which, he pleaded not guilty and claimed trial.

4. The trial Court convicted and sentenced the petitioner in the manner as referred to in the beginning of the judgment. The petitioner preferred an appeal which was also dismissed by the Court of Additional Sessions Judge, Moga, leading to the filing of the present revision petition.

5. I have heard learned counsel for the parties.

6. At the outset, learned counsel representing the petitioner submits that the petitioner does not challenge the judgment of conviction on merits. He, however, submits, for, the petitioner has undergone a protracted trial as FIR was registered against him in 1997, he was convicted vide judgment dated 12.10.2006 and even appeal was dismissed on 08.06.2007 after which the instant revision petition was filed in this Court, the sentence be modified



to that already undergone by the petitioner. He submits that the petitioner has already undergone two months and thirty days imprisonment and the fine stands deposited.

7. *Per contra*, learned State Counsel has opposed the prayer stating that the judgment of conviction and order of sentence deserve to be upheld. However, learned counsel contends that as per the custody certificate, the petitioner has undergone actual sentence of 2 months and 30 days and that he is not a habitual offender.

8. I have considered the submissions made by learned counsel for the parties.

9. As regards the sentence, I have gone through the impugned judgments and on merits I do not find any reason to interfere in it, the same being well reasoned.

10. Concededly, FIR No.135 dated 29.08.1997 was registered under Sections 61 of the Excise Act at Police Station Kot Ise Khan. The petitioner was put to trial in the year 1997 and he was convicted and sentenced vide judgment dated 12.10.2006. His appeal against the said decision was dismissed on 08.06.2007. Ever since then, his revision petition has been pending in this Court. The petitioner has faced the agony of trial and pendency of his appeal/revision etc. for the last almost 18 years. He has already undergone sentence of more than two months. There is no history of the petitioner being a previous offender. Therefore, no useful purpose would be served by sending him to custody at this stage.

11. Keeping in view the totality of the facts and circumstances, while maintaining the judgment of conviction, the order of sentence is modified to that already undergone by the petitioner.



With the aforesaid modification, the present revision petition is disposed of.

Pending application(s), if any, shall stand disposed of accordingly.

(VIKRAM AGGARWAL)
JUDGE

July 30, 2025
rekha

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