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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2195-2007

Date of decision: 07.05.2025

Bikkar Singh and another

....Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Pooja Jain, Advocate (*Amicus Curiae*)
for the petitioners.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition is preferred against the judgment dated 01.11.2007 passed by the learned Additional Sessions Judge, Barnala, vide which the appeal against judgment of conviction and order of sentence dated 10.07.2007 passed by the learned Judicial Magistrate 1st Class, Barnala, in FIR No.143 dated 04.09.2004 registered under Section 61(1)(a) of Punjab Excise Act, 1914 registered at Police Station Tapa, has been dismissed.

2. The petitioners were convicted and sentenced as mentioned below:

Offence	Sentence
Section 61(1)(a) of Punjab Excise Act, 1914	Rigorous imprisonment for a period of 01 year each and to pay fine of Rs.1,000/- each and in default thereof, rigorous imprisonment for two months each.

3. After assessing the material available on record, the learned trial Court convicted the petitioners vide judgment dated 10.07.2007. Aggrieved by the same, the petitioners preferred an appeal before the learned lower Appellate Court which has been dismissed vide judgment dated 01.11.2007.



4. Learned *amicus curiae* for the petitioner *inter alia* contends that the prosecution has not verified about the ownership of the Car that has said to be involved in the case in hand. One independent witness was joined in the investigation but he has not supported the case of the prosecution. There are material discrepancies in the statements of the prosecution witnesses. Lastly, she submits that petitioner No.1 has already undergone a total period of 02 months and 28 days in custody and petitioner No.2 has already undergone a total period of 02 months and 25 days in custody. He further submits that petitioner No.1 is involved in two more cases, out of which, he is on bail in one case and undergone sentence in another case, whereas, petitioner No.2 is not involved in any other criminal activity.

5. *Per contra*, learned State counsel opposes the prayer of the petitioners as the learned Courts below have passed well-reasoned judgments based on correct appreciation of evidence available on record. He further submits that petitioner No.1 is involved in two more cases and both the petitioners involved in a heinous crime, as such, they do not deserve any leniency. However, he could not controvert the fact that petitioner No.1 is on bail in one case and undergone sentence in another case.

6. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the petitioners were convicted under Section 61(1)(a) of Punjab Excise Act for which no minimum punishment has been prescribed. As per their custody certificate, petitioner No.1 has already undergone a total period of 02 months and 28 days in custody and

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petitioner No.2 has already undergone a total period of 02 months and 25 days in custody out of total sentence of 01 year, in the instant case. Since there is no minimum punishment prescribed under Section 61(1)(a) of Punjab Excise Act, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the petitioners is reduced to the period already undergone by them.

7. Further, the primary consideration in matters where the petitioner/appellant is involved in other NDPS cases ought to be the severity of the offence. Moreover, Co-ordinate benches of this Court have deemed it appropriate to reduce the sentence imposed upon the accused to be the custody already undergone by them, in spite of their involvement in other cases pertaining to the NDPS Act in *Pritam Singh @ Preeti vs. State of Punjab* in **CRA-S-1769-SB-2010** decided on 03.04.2025, *Ram Lal vs. State of Haryana* in **CRA-S-986-SB-2005** decided on 11.05.2018, *Raj Pal vs. State of Haryana* in **CRA-S-68-SB-2005** decided on 28.04.2023, *Raj Pal vs. State of Haryana* in **CRA-S-34-SB-2005** decided on 28.04.2023 and *Gurmail Singh and others vs. State of Punjab* in **CRA-S-1976-SB-2007** decided on 28.03.2025.

8. In *Deo Narain Mandal vs. State of U.P. (2004) 7 SCC 257*, 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.

9. Further, the Hon'ble Supreme Court in ***Ravada Sasikala vs. 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.

10. 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. However, the FIR (supra) was lodged on 04.09.2004 and the petitioners have been suffering the agony of trial for last more than 20 years. Since their conviction, they have grown into a law-abiding citizen and desire to live a peaceful life.

11. Therefore, in view of the discussion above, the present revision petition is disposed of in the following terms:-

(i) The judgment dated 01.11.2007 passed by the learned Additional Sessions Judge, Barnala, is upheld and sentence of 01 year and fine awarded by the learned trial Court is reduced to the period of sentence already undergone by the petitioners.

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

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disposed of.

13. The High Court Legal Services Authority is directed to pay remuneration to the learned *Amicus Curiae*/Legal Aid Counsel, as per rules.

(HARPREET SINGH BRAR)
JUDGE

07.05.2025*Neha*

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