

207 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2025 PHHC-174889



CRR-2365-2010 (O&M)
Date of Decision: 11.12.2025

BAGICHA SINGH ... PETITIONER
VERSUS
STATE OF PUNJAB ... RESPONDENT

CORAM : HON'BLE MR. JUSTICE H.S.GREWAL

Present:- Mr. Salil Dev Singh Bali, Senior Advocate with
Ms. Aarti Singh, Advocate and
Ms. Simmy Gupta, Advocate for the petitioner.

Mr. Parneet Singh Pandher, A.A.G., Punjab.

H.S. GREWAL, J. (ORAL)

1. Present revision has been filed against the judgment of conviction and order of sentence dated 28.02.2007 passed by the learned Chief Judicial Magistrate, Ferozepur whereby the petitioner was convicted and sentenced to undergo RI for a period of two years under Section 3 of Official Secrets Act, 1923. The said judgment of conviction and sentence was upheld by learned Addl. Sessions Judge, Ferozepur vide order dated 11.08.2010.

2. The case of the prosecution is that on 15.12.1994, a police party was going on patrol duty. When they reached at crossing of Village Golu Ka Mor, the Investigating Officer received a secret information that petitioner illegally visits the Pakistan Border by crossing and is in habit of spying the activities of Indian Military to Pakistan Military and if raid was conducted, some secret documents could be recovered from him. On receiving the information, an FIR was registered and raid was conducted at the house of the petitioner which was found to be locked. Then on receiving the secret

information, police party went to the fields of the petitioner which were adjacent to the fencing of the border. The petitioner was apprehended from his fields and from his personal search, one lined paper was recovered from his pocket on which words '*33 Armed Division, 2 lancers, 8 cavalry, 67-AR, 18 mach, 14 mach, 4 horse, 24 medigun, 235 inger*' were written in Roman script, the word Nabaa was written in Punjabi language, the words '*4 horse, 5 A.P.R, 83 Airy, 22 macho, 62 AR 81 AR*' were written in Roman script, the word Ferozepur was written in Gurmukhi script and words '*6 AR, 79 medreji, 19 Sikh, 20 Rajpoot, 59 injer, 220 Nishan arrow, and 422*' were written in Roman script. One Indian currency note of Rs. 10/- was also recovered from the pocket of the accused. However, during trial, the official who had enquired into that the case i.e. Major Mandeep Singh had not been examined by the prosecution to show that there is a violation of the official secret. Neither his report was exhibited.

3. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction on merits and restricts his prayer qua modification of the order on quantum of sentence. He also contends that the petitioner was 37 years of age at the time of occurrence and he has undergone custody for more than 05 months 25 days out of the awarded sentence of two years. He prays that since FIR in question pertains to the year 1994, a lenient view may be taken while passing an order on quantum by this Court.

4. Learned State counsel opposes the prayer of the petitioner and filed the custody certificate in the Court, which is taken on record. He further submits that the Courts below have passed well reasoned judgments based on correct appreciation of evidence available on record.

5. I have heard learned counsel for the parties and have gone through the material placed on record.

6. The FIR in the present case pertains to the year 1994 and the petitioner has already faced the rigors of the trial for more than 31 years.

7. Hon'ble the Supreme Court in **“Deo Narain Mandal Vs. State of UP”, (2004) 7 SCC 257**, has held 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, the manner in which the offence is committed, age of the appellant, 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.

8. Further, a Division Bench of the Hon'ble Supreme Court in **Ravada Sasikala Vs. State of AP, AIR 2017 SC 1166**, has held 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 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 Court

below indicates no perversity in their findings and the same is based on correct appreciation of evidence available on record. However, learned counsel for the petitioner has not assailed the judgment, rather restricted the prayer only qua modification of quantum of sentence to that of the sentence already undergone by the petitioner.

10. As far as the question of quantum of sentence is concerned, it is worthwhile to note that the occurrence in this case pertains to the year 1994. The right to speedy and expeditious trial is one of the most valuable and cherished rights guaranteed under the Constitution. The petitioner has already suffered the agony of protracted trial, spanning over a period of more than 31 years and has been in the corridors of the court for this prolonged period. In view of the facts noted above, the case of the petitioner deserves to be dealt with leniency. The petitioner also deserves the benefit of the consistent view taken by this court in this regard. Thus, guided by the judicial pronouncements made by the Hon'ble Supreme Court in the cases of **Haripada Das Vs. State of West Bengal** reported in (1998) 9 SCC 678 and **Alister Anthony Pareira vs. State of Maharashtra** reported in 2012 2 SCC 648 and considering the facts and circumstances of the case, age of petitioner, his status in the society and the fact that he faced financial hardship and had to go through mental agony, this court is of the view that ends of justice would be met, if sentence imposed upon the petitioner is reduced to the period as already undergone by him.

11. Accordingly, judgment passed by the learned Chief Judicial Magistrate, Ferozepur is hereby affirmed but the quantum of sentence awarded by the Court concerned under Section 3 of Official Secrets Act, 1923 has been modified and reduced to the period of sentence as already

undergone by the petitioner. The petitioner is on bail. He need not surrender.

His bail bonds are discharged.

- 12. With these modifications, the present petition is disposed of.
- 13. Pending application(s), if any, shall also stand disposed of.

11.12.2025

Janki

Whether speaking/reasoned

Whether reportable

:

:

Yes/No

Yes/No

(H.S.GREWAL)
JUDGE