

CRR-417-2011 (O&M)

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

**CRR-417-2011 (O&M)
Date of Decision: 17.02.2025**

RAMAN KUMAR

...Petitioner

V/S

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Padam Jain, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Present revision petition has been preferred by the petitioner against the judgment dated 10.02.2011 passed by learned Additional Sessions Judge, Fast Track Court, Patiala vide which judgment of conviction and order on quantum of sentence dated 28.04.2008 passed by learned Chief Judicial Magistrate, Patiala, have been upheld, vide which petitioner has been convicted under Section 61 of Punjab Excise Act and sentenced to undergo rigorous imprisonment for a period of one year and fine of Rs. 5,000/- was imposed with default mechanism.

2. Briefly stated case of the prosecution is that on 01.10.2002 HC Karnail Singh alongwith other police officials was present near Arya Samaj Chowk, Patiala, where he received a secret information that one Raman Kumar (petitioner herein) is indulging in selling illicit liquor at lesser rate after having it from Chandigarh and on that day he is selling the liquor by keeping the same in the dicky of his scooter and if a raid is conducted

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immediately, he could be apprehended with large quantity of liquor. Finding the information to be trust worthy, the police party started travelling towards Sirhindi Gate, Patiala and when the police party reached near Sirhindi Gate, a person was seen coming on a Scooter No. PB-11-Q-3299 and he was apprehended and enquired about his name and address. On search of dicky of Scooter, 12 bottles of illicit liquor make Bagpiper Whisky for sale in Chandigarh, were recovered. Accused-petitioner was arrested and the case property was taken into police custody vide recovery memo.

3. Learned trial Court after assessing the material on record convicted the petitioner under Section 61 of Punjab Excise Act and sentenced him to undergo rigorous imprisonment for one year and with fine of Rs. 5,000/- was imposed upon him. Appeal filed against the said judgment of conviction and order of sentence was dismissed by learned Lower Appellate Court.

4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 10.02.2011 passed by learned Additional Sessions Judge, Fast Track Court, Patiala on merits and restricts his prayer to modification of the order on quantum of sentence dated 28.04.2008 to that of sentence already undergone by the petitioner as he has already undergone a period of 03 months and 18 days, and not involved in any other case.

5. Per contra, learned State counsel opposes the prayer of the petitioner on the ground that learned trial Court has passed a well-reasoned

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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. However, he could not controvert the fact that petitioner is not involved in any other case.

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

7. 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 noti-

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cing 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.

8. A perusal of the judgment of conviction passed by the learned lower Appellate Court indicates no perversity in its findings and the said judgment 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.

9. Perusal of record indicates that FIR(supra) was registered on 01.10.2002 and the petitioner has been suffering the agony of trial since the last more than 22 years. As per the custody certificate, the petitioner has undergone total sentence of 03 months and 18 days, out of rigorous imprisonment of one year awarded to him and he is not involved in any other case.

10. 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.

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

- (i) The judgment dated 10.02.2011 passed by the learned Additional Sessions Judge, Fast Track Court, Patiala upholding the judgment of conviction dated 28.04.2008 passed by learned Chief Judicial Magistrate, Patiala is upheld, however, the order of sentence



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dated 28.04.2008 is modified to the extent that the sentence of rigorous imprisonment for one year awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) Fine of Rs. 5000/- imposed upon the petitioner shall remain intact. 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 simple imprisonment for one month.

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

(HARPREET SINGH BRAR)
JUDGE

17.02.2025
Ajay Goswami

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*