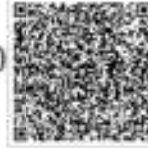


2026:PHHC:041160



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR 816 of 2010

Date of Decision: 16.03.2026

Kulwinder Singh @ Seo

...Petitioner(s)

Vs.

The State of Punjab

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Gurbhagat Singh Gill, Advocate for the petitioner.

Mr. Bhanu Pratap Singh, Addl. A.G., Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present revision petition against the impugned judgement dated 10.12.2009 passed by the Court of Sessions Judge, Bathinda and the impugned judgment and order dated 22.07.2009 passed by the Judicial Magistrate 1st Class, Bathinda, whereby, the petitioner was ordered to be convicted for the commission of the offence punishable under Section 61 of Punjab Excise Act, 1914 and he was sentenced to undergo simple imprisonment for one year and to pay a fine of Rs.5,000/-, alongwith default stipulation.

2. The brief facts of the present case are that on 05.11.2005, HC Harnek Singh accompanied by HC Darshan Singh, Constable Harwinder Singh and Excise Inspector Ram Kumar Bansal while riding a private Jeep, being driven by EI Ram Kumar Bansal, were present at Bus Stand of Village Tungwali in connection with patrol duty and checking of suspects. An informer imparted secret information to HC Harnek Singh that accused Kulwinder Singh alias Seo son of Bhola

Singh, resident of Village Tungwali is in the habit of distilling illicit liquor and if a raid is conducted at his residential house, a huge quantity of illicit liquor or *lahan* can be recovered. The information was found credible. Ruqa Ex. PW-2/A was sent to Police Station through Constable Harwinder Singh, where formal First Information Report Ex. PW-3/A was registered. The remaining police party then proceeded to conduct the raid on the house of the accused after joining Chowkidar Sardara Singh from the Bus Stand of Village Tungwali. The raid was conducted. Accused was found distilling illicit liquor by means of working a still in a room of his house. The still was cooled down and dismantled, 150 Kgs, *Lahan* was found in a drum. The components of the still were taken into possession through recovery memo Ex. PW-2/C. A pint of distilled *Lahan* was separated as sample. The remaining illicit liquor, *Lahan* and sample were sealed with seal bearing letters 'HS', which was handed over to EI Ram Kumar Bansal after use. Accused was arrested after supplying the grounds of arrest vide Memo Ex. PW-2/F. Personal search of the accused was conducted, but nothing was recovered and Memo Ex. PW-2/D in this regard was prepared. Intimation regarding the arrest of accused Ex. PW-2/G was given to his relations. Site Plan Ex. PW-2/H was prepared. Lahan was got tested from Excise Inspector Ram Kumar Bansal, who submitted his report Ex. PW-2/B. The sample of distilled lahan was found to be illicit liquor by the Chemical Examiner vide Report Ex. P-1. After the completion of investigation, *challan* was presented in the Court.

3. After perusing the *challan* and accompanying documents, the trial Court held that a *prima facie* case under Section 61(1)(c) of the Punjab Excise Act was made out against the petitioner and he was ordered to be charge-sheeted accordingly. However, the petitioner pleaded not guilty and claimed to be tried.

4. In order to prove the charge, the prosecution examined four witnesses, namely, Sukhmander Singh PW-1, EI Ram Kumar Bansal PW-2, HC Harnek Singh PW-3 and HC Gurwinder Singh PW-4 and, thereafter, the prosecution evidence was closed.

5. The entire incriminating evidence was put to the petitioner in the shape of his statement under section 313 Cr.P.C. and he termed the prosecution evidence as false and incriminating and submitted that he had been falsely involved in the present case. In defence, the petitioner did not lead any evidence.

6. During the course of arguments, learned counsel for the petitioner submits that he does not wish to challenge the judgement of conviction, however, some leniency may be shown while awarding the sentence to the petitioner.

7. Even though learned counsel for the petitioner does not wish to challenge the conviction, however, this Court has considered the case on merits.

8. In the present case, the prosecution had examined PW2 Ram Kumar Bansal, Excise Inspector, and PW3 HC Harnek Singh, who categorically stated that the petitioner was caught red-handed by them and after dismantling the working still, the components of working still,

Lahan and distilled liquor were recovered from the present petitioner. Even, PW3 HC Harnek Singh had duly identified the case property in the Court and had deposed with regard to the investigation conducted by him. Apart from that, PW2 Ram Kumar Bansal, Excise Inspector, also exhibited its report, Exhibit PW2/B of the contents of the drum and as per the said report, the drum contained *Lahan* fit for distilling. PW4 MHC Gurwinder Singh submitted that the case property was prepared by the prosecution and the sample was sealed properly. Even the statement of PW4 HC Gurwinder Singh was further corroborated by PW1 Constable Sukhmander Singh. Apart from that, the prosecution placed on records the report of the chemical examiner, Exhibit PW3/B, which proved that the sample contained illicit liquor. The prosecution witnesses were examined at length, however, their testimonies could not be shattered in any manner. Even otherwise, I have carefully perused the findings recorded by both the Courts and find no reasons to deviate from the same. Even, the learned counsel could not point out any infirmity in the judgments of conviction passed by both the Courts and the petitioner has been rightly convicted for commission of the offence under Section 61 of the Punjab Excise Act.

9. Now, adverting to the order of sentence, this Court cannot lose sight of the fact that the petitioner is facing the ordeal of investigation and appeal since 05.11.2005, i.e., for the last more than 20 years. Even, he was the first offender and even after the suspension of sentence by this Court on 10.05.2010, he maintained good conduct and did not get involved in any other crime. Apart from that, the appellant

has undergone more than one month of actual sentence. Consequently, keeping in view the aforesaid mitigating circumstances, the sentence imposed on him is reduced to the period already undergone by him.

10. With the above modifications, the revision is partly allowed and the impugned judgement dated 10.12.2009 passed by the Court of Sessions Judge, Bathinda and the impugned judgment and order dated 22.07.2009 passed by the Judicial Magistrate 1st Class, Bathinda, are upheld whereas the order of sentence is modified to the extent that the sentence imposed on the present petitioner is reduced to the period already undergone by him. The sentence of fine will remain the same.

11. All pending applications, if any, are disposed off, accordingly.

12. The case property, if any, may be dealt with as per the rules after expiry of period of limitation for filing the appeal.

16.03.2026		(N.S.SHEKHAWAT)
amit rana		JUDGE
Whether reasoned/speaking	:	Yes/No
Whether reportable	:	Yes/No