

2026:PHHC:048131



IN THE HIGH COURT OF
PUNJAB AND HARYANA AT CHANDIGARH

SR. NO.210

CRR-521-2013 (O&M)
DATE OF DECISION:25.03.2026

BUA DASS

...PETITIONER(S)

VERSUS

STATE OF PUNJAB

...RESPONDENT(S)

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

Present: Mr. Ajaypal Singh, Advocate with
Mr. A.S. Manaise, Advocate
for the petitioner.

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

N.S. SHEKHAWAT, J.

1. The petitioner has filed the present petition against the judgment dated 02.01.2013 passed by the Additional Sessions Judge (FTC), Gurdaspur, vide which the impugned judgment and order dated 11.11.2021 passed by JMIC, Batala has been upheld, whereby the petitioner has been convicted for the offence punishable under Section 61(1)(c) of the Punjab Excise Act and sentenced to undergo RI for one year along with fine of Rs.5,000/-. In default of payment of fine, he was directed to further undergo RI for 30 days.

2. The facts noted in para 2 of the impugned judgment read as

“The prosecution case, in brief is that on 19.04.2004 police party headed by HC Rajinder Kumar was on patrolling duty and in the area of Haruwal the informer passed an information that Bua Dass son of Jagdish Raj resident of Khatib was habitual in distillation and sale of illicit liquor and if raid is conducted, recovery can be effected. Finding the information to be reliable, the ruqa was sent to the police station. On the basis of which, formal FIR was registered. Thereafter, the informed place was raided and accused Bua Dass was apprehended while distilling illicit liquor by means of working still. The working still was cooled down. The components of working still including one drum containing 60 kg of lahan and one Can plastic containing illicit liquor including two half burnt pieces of wood, one bundle of wire, one chapni, one pipe plastic, one iron bucket, one pipa plastic were recovered. A sample nip of 180 mls of illicit liquor was taken from Can and remaining liquor on measurement came quarter to 3 bottles, which were repoured in the same Can. Can, sample and drum containing lahan were sealed and taken into possession along with other articles vide a recovery memo. A rough site plan was also prepared at the spot. After the completion of investigation and other formalities, challan against the accused was presented in the Court.”

3. On finding a prima-facie case, charge under Section 61(1)(c) of Punjab Excise Act was framed against the accused/petitioner by the trial Court, to which, he pleaded not guilty and claimed trial.

4. In order to prove the charge, the prosecution examined PW-1 Amarjit Singh, Excise and Taxation Officer, who proved his report (Exhibit P1) vide which he declared the contents of drum boiler to be a mixture of jaggery, water and kiker barks and pointed out that illicit liquor could be distilled out of the fomented mixture. PW-2 Rajinder Kumar was the

(Exhibit PB), recovery memo (Exhibit PC) and site plan (Exhibit PD). PW-3 HC Gurmeet Singh had taken the samples and had deposited the same with Chemical Examiner, Chandigarh. PW-4 C.Kuldip Singh, was a recovery witness, who supported the version of PW-2 HC Rajinder Kumar. PW-5 MHC Lakhwinder Singh had deposited a drum containing lahan weighing 60 kg and one sample nip in the sealed condition. He got the contents of lahan tested from Excise Inspector Amarjit Singh and also handed over the sample nip to Constable Gurmeet Singh to deposit the same with the Chemical Examiner. Neither he tampered the case property nor allowed anyone else to do so.

5. After the closure of the prosecution evidence, the statement of the accused was recorded under section 313 Cr.P.C. and he pleaded that he was falsely involved and the prosecution story was concocted. However, he did not lead any evidence in his defence and closed the same.

6. During the course of arguments, learned counsel for the petitioner contended that in the present case, the police did not associate any independent witness at the time of effecting the recovery from the present petitioner. In fact, the FIR was registered on the basis of a secret information and the police had sufficient time to join such witnesses. However, I find no grounds to accept the said argument, as the case of the prosecution cannot be discarded only on the ground that it was based on the testimonies of the official witnesses. In fact, the evidence of the official witnesses was cogent, convincing and reliable and both the Courts have rightly held the petitioner guilty for commission of the offence punishable under section 61 of the Excise Act.

7. Now adverting to the order on quantum of sentence, this Court has noticed that the present petitioner has been convicted by the Special Court in a case arising out of FIR No. 58 dated 13.05.2011 registered under Section 22 of the NDPS Act at Police Station Kila Lal Singh. In another matter, i.e. FIR No. 32 dated 12.02.2005 registered under Sections 61/1/14 at Police Station Kila Lal Singh, the petitioner has been convicted and sentenced by Additional Sessions Judge, Gurdaspur. Apart from that, he was also arrayed as an accused in two more FIRs, i.e. FIR No. 128 dated 13.7.2012 under Sections 22/61/85 of the NDPS Act and FIR No.50 dated 30.04.2009 under Sections 61/1/14 of the Excise Act. Thus, it appears that the present petitioner is a smuggler and is involved not only in smuggling/manufacturing of liquor, but is also involved in drugs cases. Thus, he does not deserve any leniency and the present petition is liable to be dismissed.

8. In view of above discussion, the present revision petition is dismissed, being devoid of any merits. Necessary compliance be made.

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

25.03.2026
mks

(N.S.SHEKHAWAT)
JUDGE

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO