## HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

JASTHAN HIGH COL

S.B. Criminal Revision Petition No. 1427/2022

Balwant S/o Dula Ram, Aged About 30 Years, R/o Chak 3 Spd Tehsil Rawatsar, District Hanumangarh.

----Petitioner

Versus

State Of Rajasthan, Through Pp

----Respondent

For Petitioner(s) : None present

For Respondent(s) : Mr. Mohd. Javed Gauri, P.P.

## HON'BLE MR. JUSTICE FARJAND ALI

## Order

## 02/06/2023

- 1. By way of filing the instant Criminal Revision Petition challenge has been made to the judgment dated 30.08.2022 passed by the learned Additional Sessions Judge No.1, Nohar, District Hanumangarh in Criminal appeal No.12/2020, whereby the learned appellate court affirmed the judgment of conviction and order of sentence dated 24.01.2020 passed by learned Judicial Magistrate, Rawatsar, District Hanumangarh in Criminal Regular Case No.607/2010; whereby the petitioner has been convicted for the offence under Section 54.क of the Rajasthan Excise Act and has been sentenced to suffer simple imprisonment of 1 year alongwith a fine of Rs.20,000/- with default sentence of one month's simple imprisonment.
- 2. Briefly stated, the facts of the case are that on 13.11.2010, Mr. Satyanarayan, ASI, alongwith other police personnel

conducted a Nakabandi at Kalalawali Dahni Circle, Rawatsar. At about 08.10 p.m., they intercepted a suspected Pickup vehicle. The driver of the vehicle fled away. On conducting search of the vehicle, a huge quantity of liquor was found loaded therein. The vehicle and the liquor was seized and an FIR No.467/2010 was registered at the Police Station Rawatsar. After usual investigation a charge-sheet came to be submitted against the petitioner under Sections 19/54 and Section 54. $\overline{a}$  of the Rajasthan Excise Act.

3. The Learned Magistrate framed charges against the petitioner for the offences under Sections 19/54 and Section 54.क of the Rajasthan Excise Act and upon denial of guilt by the accused, commenced the trial. During the course of trial, as many as 8 witnesses were examined and 17 documents were exhibited. Thereafter, an explanation was sought from the accused-petitioner under Section 313 Cr.P.C. and then, after hearing the learned counsel for the accused petitioner and meticulous appreciation of the evidence, learned Trial Judge while acquitting him from the charge under Section 19/54 of the Rajasthan Excise Act, convicted him for the offence under Section Section 54.क of the Rajasthan Excise Act vide judgment dated 24.01.2020. Aggrieved by the judgment of conviction, he preferred an appeal, which came to be dismissed by the learned appellate court vide judgment dated 30.08.2022 affirming the judgment passed by the trial court. Hence, this revision petition is filed before this court.

- 4. Learned counsel for the petitioner is not present, however, looking to the nature of offence and the sentence awarded, this court deems it fit to examine the merits of the case after hearing the submissions of the learned Public Prosecutor, who submits that there are concurrent finding of the two courts of competent jurisdiction regarding guilt of the petitioner; the prosecution has proved its case beyond reasonable doubt by producing concrete evidence; the learned trial court as well as the learned appellate court have already taken a lenient view by awarding sentence of one year, therefore, no interference is called for in the impugned judgment of conviction and order of sentence. However, he admits that it is the first offence of the petitioner and he does not have have any criminal antecedents.
- 5. Having heard the submissions advanced by the learned Public Prosecutor and perusing the impugned judgments, this court is of the firm opinion that the prosecution has proved its case beyond reasonable doubt by producing cogent and unimpeachable evidence. The learned appellate court has further re-appreciated the evidence and affirmed the finding of guilt arrived at by the learned trial court. Thus, there are concurrent finding of two courts of competent jurisdiction regarding culpability of the accused petitioner. Thus, this court finds no reason to interfere in the judgment of conviction. Accordingly, the judgment of conviction passed by the trial court and affirmed by the appellate court is maintained.

- 6. As far as the question of quantum of sentence in concerned, it is true that the petitioner has remained behind the bars for some time during trial. He has not been shown to be indulged in any other criminal case except this one. Thus, in the light of the judgments passed by the Hon'ble Supreme Court in the cases of Haripada Das Vs. State of West Bangal 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 appellant, his criminal antecedents, and the facts that he faced financial hardship and had to go through mental agony and has been facing the rigour of trial for the last 13 years, this court deems it appropriate to reduce the sentence to the term of imprisonment that the petitioner has already undergone till date.
- 7. Accordingly, the judgment of conviction dated 24.01.2020 passed by the learned Judicial Magistrate, Rawatsar, District Hanumangarh in Criminal Regular Case No.607/2010 as well as the judgment of appeal dated 30.08.2022 passed by the learned Additional Sessions Judge No.1, Nohar, District Hanumangarh in Criminal appeal No.12/2020 are affirmed but the quantum of sentence awarded by the learned Trial Court is modified to the extent that the sentence the petitioner has undergone till date would be sufficient and justifiable to serve the interest of justice. The petitioner is not in judicial custody. He need not surrender. His bail bonds are discharged. If any warrant of arrest has been issued against him, the same shall be withdrawn forthwith.

However, in case the petitioner has been put behind the bars in the present case during the pendency of the instant revision, he shall be released forthwith, if not wanted in any other case.

- 8. The revision petition is allowed in part.
- 9. Stay application and all pending applications, if any, are disposed of.

(FARJAND ALI),J

7-Pramod/-