

**In the Court of Bikramdeep Singh,  
Judicial Magistrate First Class, Baba Bakala Sahib,  
District Amritsar.**

**CNR No. PBASB10006772021**



**Case No. CHA/75/2021**

Presented on : 05-04-2021  
Registered on : 05-04-2021  
Decided on : 05-01-2024

**FIR No. 62, dated 01.08.2020,  
Under Sections 61-1-14 of Excise Act.  
P.S. Mattewal.**

State vs Sarwan Singh @ Jant s/o Gurmej Singh r/o village  
Taharpur, P.S. Mattewal.

Present Sh. A.S. Kahlon, APP for the State.  
Accused Sarwan Singh @ Jant on bail with counsel Sh. S.S.  
Tapiala, Advocate.

**JUDGMENT:**

1. The aforesaid FIR under Section 61-1-14 Excise Act was registered against the accused Sarwan Singh @ Jant facing trial on the premise that on 01.08.2020, SI Kewal Singh in the company of other police officials were present at Adda Boparai, on their vehicles, for the purpose of patrolling, in search of bad elements of society, where secret informer passed secret information before SI Kewal Singh that accused Sarwan Singh is habitual of distilling and selling illicit liquor from his residence and if raid be conducted, he could be apprehended and illicit liquor could be recovered. Finding the secret information reliable, ruqa was sent through Ct. Harwnider Singh and thereafter, the police party raided the residential premises of accused where one person was seen shaking hand in silver bowl and on seeing the police party accused managed to escape from the spot but he

(accused) was already known to ASI Hardev Singh. Later he was apprehended. The silver bowl was checked in which lahan weighing around 20 Kg was found. The said silver bowl was sealed with jute bag and rope. IO/SI Kewal Singh appended his seal impression 'KS' over the same and handed it over to ASI Hardev Singh. They also recovered one cane plastic containing illicit liquor measuring 9 bottles. Out of the entire liquor, 180 ml of the sample was drawn and the remaining liquor was found to be 8 bottles of 750 ml each and one bottle of 570 ml. In the whole process, 20 kg lahan and 9 bottles of illicit liquor were recovered from the possession of the accused. The sample of 180 ml was separately sealed with seal impression KS and the remaining liquor i.e. 8 bottles of 750 ml each and one bottle of 570 ml were also sealed with seal impression KS and on 03.08.2020 Sh. Bikramjit Singh, Excise Inspector, Circle Rayya, submitted his written report Ex.PZ. As per his report, lahan was ready and fermented and thereafter, on 11.08.2020, the sample of illicit liquor was sent for testing before Chemical Examiner, at Kharar through ASI Baldev Singh.

2. After registration of the FIR, investigation commenced. The statement of the witnesses were recorded. After the receipt of the report of chemical examiner, challan against accused was presented in the Court recommending trial of accused for offence punishable under Section 61-1-14 of Excise Act.

3. On finding prima facie case, charge under Section 61-1-14 Excise Act was framed to which accused pleaded not guilty and claimed trial.

### **PROSECUTION EVIDENCE**

4. **PW-1 ASI Baldev Singh.**

This witness was the sample carrier. He exported the sample to Chemical Examiner, at Kharar vide road No.83/21/20 on 11.08.2020 for its inspection. He deposited the sample in the office of chemical examiner, at Kharar on the same day and handed over the receipt to MHC.

5. **PW-2 SI Baldev Singh.**

He stepped into the witness box and stated that he is the IO of the present case. On 01.08.2020, police party headed by this witness were patrolling at Adda Boparai, when he received secret information that accused Sarwan Singh @ Jant is habitual of distilling and selling illicit liquor and he further deposed that on finding the secret information reliable, raid was conducted by the police party and the accused was apprehended along with the plastic cane containing illicit liquor and Lahan. Sample of 180 ml was drawn and was sealed with seal impression KS along with remaining illicit liquor. He proved the following documents :-

- i. Ex.PA – Ruqa..
- ii. Ex.PB – FIR. Ruqa.
- iii. Ex.PC – Recovery memo
- iv. Ex.PD - Rought site plan.
- v. Ex.PE - Arrest cum intimation memo.
- vi. Ex.PF – Disclosure statement.
- vii. Ex.PX - FSL Report.
- viii. Ex.PZ – Test report of lahan.
- ix. Ex.PY - Form M29
- x. Ex.MO1 & Ex.MO2 - Case property.

6. Thereafter, the State counsel closed the evidence followed by the statement of accused under Section 313 Cr.P.C. in the course whereof entire incriminating evidence was put to him, and he desired not to lead any evidence.

### **ARGUMENTS**

7. I have heard Sh. A.S. Kahlon, APP for the State, who argued that in view of evidence led by prosecution, guilt of accused is proved beyond shadow of reasonable doubt and accordingly accused be convicted.

On the other hand, Ld. defence counsel has argued that there are discrepancies in the evidence put forth by prosecution, as the case property produced in the Court is not intact and no independent witnesses have been joined by Investigating agency, so accordingly, benefit of doubt be given to accused and he be acquitted.

### **DISCUSSION**

8. I have heard learned APP for the state and learned defence counsel.

09. An instant FIR was registered after the accused was apprehended and was found in possession of 9 bottles of illicit liquor and 20 kg lahan. In the offences where illicit liquor & lahan are recovered without any permit or license, the main point for adjudication and which is significant in proving the guilt of the accused up to the hilt is the chain of events and circumstances leading to the commission of offence till the submission of final report under Section 173 Cr.P.C. In the case in hand while the police party, headed by SI Kewal Singh, were patrolling at Adda Boparai, secret information was received leading to the raid in the premises

of the accused where he was found in possession of illicit liquor and lahan contained in the silver bowl. Out of entire illicit liquor, 180 ml of sample was drawn. The remaining liquor as well as the sample were separately sealed with seal impression KS and thereafter, it was deposited before the MHC by the Investigating Officer. On the other hand 20 Kg lahan was also recovered from the silver bowl which was sealed with the seal impression 'KS' and was taken into police possession vide memo Ex.PC. Thereafter, Sh. Bikramjit Singh, Excise Inspector visited P.S. Mattewal and gave his test report Ex. PZ and again sealed the case property with his seal impression 'BS'. Thereafter, the case property i.e. one silver bowl containing lahan was produced in Court as Ex.MO1. Also further, the case property has been produced in the Court, which no doubt is less than what was recovered. However, looking into the extreme weather conditions in the State of Punjab, and also that the case property was produced in the court after yawning gap of more than two years from the date of alleged recovery, the ethyl components, spirit etc. all these things evaporate by themselves with the course of time. Accordingly, the reasoning adopted by Ld. Defense counsel about the quantity of liquor being less than the recovered one, is not acceptable. The entire process of receiving the secret information and thereafter apprehending the accused with illicit liquor and lahan, after the raid, has been duly stated by the star witness i.e. IO.

10. Now, coming on to the next course of action. After the deposit of sample before MHC, he kept the sealed sample in the police malkhana and on 11.08.2020, the sealed sample was handed over to ASI Baldev Singh who deposited the same in the office of chemical examiner at Kharar. The

report from the chemical examiner was received which is Ex.PX on record and the result that surfaced from the report was as under :-

**“The sample is illicit liquor”.**

PW-1 is ASI Baldev Singh and he unhesitatingly deposed about the aforesaid fact.

11. In view of the above discussion, it is proved by prosecution that lahan and illicit liquor was recovered from the accused Sarwan Singh @ Jant which was ready to distill liquor. Nothing contrary could be proved by the learned Defence counsel. Merely, non joining of independent witness by the Investigating Agency shall not be fatal to the case of prosecution, as accused could not prove that why the police officials would falsely implicate him in the present case. Moreover, the sole testimony of IO is sufficient to prove the prosecution's case, if it is found to be cogent and reliable. The accused never had an audacity and courage to cross-examine the IO despite opportunity being afforded.

Hence it can be safely held without any demur that 9 bottles of illicit liquor and 20 kg lahan were recovered from the possession of the accused and accordingly accused Sarwan Singh @ Jant is hereby held guilty and is convicted for the offence punishable under section 61-1-14 of Punjab Excise act, 1914. He be taken into custody. Let convict be heard on question of sentence.

**Pronounced in open court:**

**Dated: 05.01.2024.**

Jishan Ahmad, Stenographer-II

**(Bikramdeep Singh),  
Judicial Magistrate Ist Class,  
Baba Bakala Sahib  
District Amritsar.  
UID No. PB0396**

**Quantum of sentence.**

Present:- Convict Sarwan Singh @ Jant in custody represented by  
counsel Sh. S.S. Tapiala, Advocate.  
Sh. A.S. Kahlon, APP for the State.

I have heard the convict on quantum of sentence. The convict prayed that he is first time offender and prayed for mercy from the Court.

On the other hand Learned Additional Public Prosecutor for the State has argued vehemently that convict present in the Court has committed a serious crime and he should be punished.

Arguments heard. I am of the considered opinion that guilt of accused is proved for the offence punishable under Section 61-1-14 of Excise Act, 1914 and as per record appended with this file, convict has no criminal record. Neither Ld. APP for the State has placed on record any previous criminal record of the convict. In these circumstances, I am of the considered opinion that the present case is fit case to release convict under the Probation of Offenders Act as opportunity be given to convict to improve himself. So, in these circumstances convict is released on Probation for a period of one year, on furnishing of probation bonds in the sum of Rs.20,000/- along with Rs.300/- litigation expenses, and it is made clear that if he is again found involved in any other offence then convict will be called for hearing on sentence in this case also.

Case property be disposed off as per rules, after the period of appeal/ revision, if any. Earlier bail bonds and surety bonds stands discharged. Copy of this judgment be supplied to the convict free of cost as per rules. File be consigned to the Record Room.

**Pronounced in open court:**

**Dated: 05.01.2024.**

Jishan Ahmad, Stenographer-II

**(Bikramdeep Singh),  
Judicial Magistrate Ist Class,  
Baba Bakala Sahib  
District Amritsar.  
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**State Vs. Sarwan Singh @ Jant.****CHA-75-2021**

Present Sh. A.S. Kahlon, APP for the State.  
Accused Sarwan Singh @ Jant on bail with counsel Sh. S.S.  
Tapiala, Advocate.

Arguments heard. Vide separate and detailed judgment of even date, accused Sarwan Singh @ Jant has been convicted and released on probation. Earlier bail bonds and surety bonds furnished by accused are discharged. Case property, if any, be disposed off as per rules, after expiry of period of appeal/revision, if any. File be consigned to Record Room after due compliance.

**Pronounced in open court:****Dated: 05.01.2024.**

Jishan Ahmad, Stenographer-II

**(Bikramdeep Singh),  
Judicial Magistrate Ist Class,  
Baba Bakala Sahib  
District Amritsar.  
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