

**IN THE COURT OF NAVREET KAUR, PCS,
SUB DIVISIONAL JUDICIAL MAGISTRATE, DERA BASSI**

CIS No.	CHA-84-2022
CNR No.	PBSAB1 001361 2022
Challan presented On:	31.05.2022
Decided On:	27.01.2025

State Vs Krishan Pal son of Sh. Garib Singh, resident of
Village Sakarpur, P.S. Raipur Rani, District
Panchkula (Haryana).
.....Accused.

FIR No.	197 dated 11.06.2021
U/S:	61-1-14 and 78(2) of Excise Act
Police Station:	Dera Bassi

Present: Ld. APP for the State.
 Accused Krishan Pal on bail with counsel
 Sh. Ankit Rana Advocate

JUDGMENT:-

The above named accused has been sent by Station House Officer, PS Dera Bassi, District SAS Nagar, Mohali to face the trial for the offences punishable under Section 61-1-14 and 78(2) of Excise Act (hereinafter, referred as Act).

2. The prosecution in the present case has been initiated on the allegations that on 11.06.2021 in the area of P.S. Dera Bassi, the accused was found in possession of 04 boxes (each box containing 12 bottles) of liquor make ‘Orange Charley’ for ‘Sale in Haryana Only’ and 01 box (containing 12 bottles) of liquor make ‘999 Power Star Fine Whisky’ for

‘Sale in Chandigarh Only’ without any license or permit in a car bearing registration No.CH-01AN-7545. Thereafter, the FIR was registered and investigation was set into motion. Spot map was prepared. Sample measuring 180 ml was drawn. Remaining liquor along with sample seal slip and Form No. M-29 were taken into police possession. Accused Krishan Pal was arrested and his personal search was conducted. Arrest, intimation and personal search memo was prepared. Car was taken into police possession along with its documents. Statements of witnesses under Section 161 Cr.P.C. were recorded. After completion of the investigation, challan against the accused persons was prepared and presented in the Court.

3. On presentation of challan and appearance of accused in the court, complete copies of report under Section 173 Criminal Procedure Code (hereinafter referred as Cr.P.C) and accompanying documents therewith were supplied free of costs to him as envisaged under Section 207 Cr.P.C.

4. The perusal of report under Section 173 Cr.P.C. and other supporting documents showed prima facie commission of offence under Section 61/1/14 and 78(2) of the Act by accused, and accordingly charge was framed against him. The accused did not plead guilty and claim trial.

5. In order to prove the case, the prosecution examined following witnesses with documents:-

Sr. No.	Name of witnesses	Evidence and documents
PW1	ASI Baldev Singh, No.1528/SAS Nagar (Malkhana Munshi)	Ex.P1 – Ruqa, Ex.P2 – FIR, Ex.P3 – Endorsement, Ex.P4 – Sample seal slip,

		Ex.P5 – memo vide which the case property along with sample seal slip was taken into police possession, Ex.P6 – memo vide which car bearing registration No. CH-01AN-7545 was taken into police possession, Ex.P7 – arrest memo of accused, Ex.P8 – his personal search memo, Ex.P9 – rough site plan, Ex.P10 – Report of Chemical Examiner, Ex.MO1 and Ex.MO2 – two plastic drums, Ex.MO3 & Ex.MO4 – plastic bag containing empty bottles and cardboard boxes, Ex.MO5 – Car.
PW2	Jitender Sekhon, Data Entry Operator, Chandigarh.	Ex.PW2/A – Screen report of car bearing No. CH-01AN-7545, Ex.PW2/B – coloured copy of registration certificate of said car.

6. Thereafter, when the case was fixed for remaining prosecution evidence, then the accused Krishan Pal showed his willingness to confess his guilt. Accordingly, separate confessional statement of accused Krishan Pal has been recorded. Believing the plea of guilt of accused to be voluntary and without any pressure, I hold accused guilty for commission of offence under Section 61-1-14 and 78(2) of the Act and accused stand convicted accordingly thereunder. Let he be heard on the quantum of sentence.

Pronounced in open Court.
Dated: 27.01.2025

(Navreet Kaur), PCS
Sub-Divisional Judl. Magistrate
Dera Bassi / (UID : PB – 0436)

QUANTUM OF SENTENCE

Present: Ld. A.P.P. for State.
 Convict Krishan Pal in custody, with counsel
 Sh. Ankit Rana Advocate

7. I have heard the convict on the quantum of sentence. The convict-Krishan Pal prayed for taking lenient view and submitted that he is the only bread winner of his family. So, he prayed for a lenient view against him and that he may be released on probation.

8. On the other hand, the learned APP has argued that the convict be awarded with whole term of the punishment as provided in the relevant Section of the law as the offence committed by him is serious in nature and forcefully argued that benefit of Probation of Offenders Act should not be granted to him and exemplary sentence be passed against him.

9. Heard. Record perused. After hearing both the parties and perusing the record, it appears that the convict is a first time offender as there is nothing on record to suggest that he is previous convict and thus it can be said that he is not criminal for which he should be treated at par with other criminals. Therefore, sending him behind the bars shall serve no purpose. Even otherwise, he has shown remorse for the offence for which he has been convicted and in such like cases, convict can be released on probation and condition imposing minimum sentence would not apply in case the accused is to be given benefit of Probation of Offenders Act. My these observations are supported by law laid down by Hon'ble Punjab & Haryana High Court in Buta Singh Vs. State of Punjab 2004(4) CrI.CC 58 (P&H) by relying upon the law laid down by the Hon'ble Supreme Court of India in AIR

1972 S.C. 1295 and in Sona Vs. State of Punjab 1980 Cr.L.J 1218

(P&H) as per the ratio of which, *benefit of probation can be granted even in the cases wherein minimum sentence has been prescribed.* Therefore, keeping in view the above reasoning, I am granting him benefit U/s 4 of the Probation of Offenders Act, 1958 and the accused Krishan Pal is ordered to be released on probation on furnishing his personal probation bonds for good conduct for a period of six months in the sum of Rs.40,000/- with alike surety. However, convict is directed to pay Rs.4,000/- as litigation costs. Cost paid.

10. It is further, clarified that as per the S.12 of the Act, notwithstanding this conviction, convict will not suffer disqualification or stigma, if any, attaching to such conviction.

11. Case property, if any, be disposed of, after expiry of period of appeal or revision, if any. His bail bonds (except those furnished under Section 437A of Cr.P.C.) are cancelled and surety bonds are discharged. File be consigned to Judicial Record Room, Derabassi, after due compliance.

Pronounced in open Court.
Dated: 27.01.2025

(Navreet Kaur), PCS
Sub-Divisional Judl. Magistrate
Dera Bassi / (UID : PB – 0436)

Note: This Judgment of mine comprises of total **5** pages and all the pages have been checked and signed by me.

Pronounced in open Court.
Dated: 27.01.2025

(Sumit Kumar)
Stenographer Gr-II

(Navreet Kaur), PCS
Sub-Divisional Judl. Magistrate
Dera Bassi / (UID : PB – 0436)
(Directly Dictated)

Navreet Kaur, PCS (UID No. PB0436)