

IN THE COURT OF Ms. SUMUKHI, PCS, SUB DIVISIONAL
JUDICIAL MAGISTRATE, MALOUT. (UID PB0379)

PBSMB10006772020

Case No. CHA/87/2020

Presented on : 04-06-2020

Registered on : 04-06-2020

Decided on : 24-10-2024

State Versus Rajpal Singh son of Iqbal Singh resident of
village Bhagsar, Tehsil Malout, District Sri
Muktsar Sahib.

.....Accused.

FIR No. 58 dated: 23.07.2019

Under Section 61/1/14 of Punjab Excise Act

Police Station: Lakhewali.

Present: Sh. H.S.Virk, Ld. APP for the State.

Accused Rajpal Singh on bail in this case but in custody
represented by Sh. S.S.Bhullar, Advocate.

JUDGMENT:-

1. The accused above named has been sent up by the SHO of Police Station City Malout to face trial under Section 61 of the Punjab Excise Act on the allegation that on 23.07.2019 at about 9:00 PM in the area of Bus Stand Bhagsar, accused Rajpal Singh was found in possession of 06 bottles of country made liquor marka Dheka Desi Punjab Rano Sofi each bottle 750 ML and 04 bottles of country made liquor marka Punjab Lajwab Sofi each bottle 750 ML without any valid license or permit. After recovery, case property was sealed with seal bearing impression "KS". That accused

by keeping 10 bottles of above said liquors without any valid license or permit committed offence under Section 61 Excise Act. Ruqa against the accused was sent and the instant FIR was registered. During the investigation, statements of witnesses were recorded. Rough site plan was prepared. Report of Chemical Examiner Kharar was obtained and on completion of investigation, challan against the accused was presented before the court.

2. On appearance of the accused in the court, copies of necessary documents as relied upon by the prosecution were supplied to accused free of costs as required u/s 207 of Criminal Procedure Code, 1973 (hereinafter referred as Cr.P.C.).

3. Finding a prima facie case u/s 61 of Punjab Excise Act, 1914 against the accused, charge was framed against the accused. The contents of charge were read over and explained to the accused in vernacular, to which accused pleaded not guilty and claimed trial.

4. In order to bring home the guilt of the accused, the prosecution has examined PW-1 ASI Hira Singh, who reiterated the prosecution story and explained the details of the investigation by proving several documents i.e. ruqa Ex.P1, FIR Ex.P2, endorsement Ex.P3, form M-29 Ex.P4, recovery memo Ex.P5, personal search memo Ex.P6, arrest memo Ex.P7, intimation memo Ex.P8, rough site plan Ex.P9, chemical report Ex.P10 and identified you and case property MO1.

5. Prosecution has further examined HC Sukhwinder Singh as PW-2 deposed his affidavit Ex.PW-2/A regarding depositing of the above said liquor in the malkhana and handed over sample to SCT Jagsir Singh for

depositing the same in the office of chemical examiner.

6. Prosecution has further examined PW-3 SCT Shalender Singh, the Assisting witness, who corroborated the version of the investigation Officer and proved the documents i.e. ruqa Ex.P1, FIR Ex.P2, endorsement Ex.P3, form M-29 Ex.P4, recovery memo Ex.P5, personal search memo Ex.P6, arrest memo Ex.P7, intimation memo Ex.P8, rough site plan Ex.P9, chemical report Ex.P10 and identified you and case property MO1

7. Prosecution has further examined SCT Jagsir Singh as PW-4 deposed vide his affidavit Ex.PW-4/A deposed regarding depositing of sample in the office of Chemical examiner and gave acknowledgment to HC Sukhwinder Singh.

8. Thereafter, Ld. APP for the state closed the evidence on behalf of prosecution vide separate statement.

9. On closure of the prosecution evidence, statements of the accused under section 313 Cr.P.C were recorded, in which all the incriminating evidence appearing against the accused from the prosecution evidence was put to accused, he pleaded his innocence and falsely implicated in the present case. He further stated that nothing was recovered from him as alleged by the police.

10. In defence evidence, accused opted not to lead defence evidence.

11. Learned APP for the State argued that prosecution has fully proved its case by examining aforementioned witnesses. Accordingly, he has prayed that accused be convicted and sentenced as per law.

12. The learned defence counsel has argued that the case of the prosecution cannot be said to be proved only on the testimony of the official witnesses. The testimony of the prosecution witnesses has not found any corroboration from any independent witness.

13. **I have heard the learned APP for the State and the learned defence counsel and have gone through the file carefully.**

14. The learned APP for the State has contended that from the evidence of PW-1 to PW-4, it is proved on record that accused was found in possession of **06 bottles of country made liquor marka Dheka Desi Punjab Rano Sofi each bottle 750 ML and 04 bottles of country made liquor marka Punjab Lajwab Sofi each bottle 750 ML** without any license and as such, he has committed an offence punishable under section 61 of the Punjab Excise Act. Prosecution has successfully proved the case against the accused beyond the shadow of reasonable doubt. Accordingly, accused be convicted.

15. The prosecution in order to prove its case, examined **PW-1 HC Kala Singh and PW-3 SCT Shalender Singh** who reiterated the prosecution story and proved ruqa Ex.P1, FIR Ex.P2, endorsement Ex.P3, form M-29 Ex.P4, recovery memo Ex.P5, personal search memo Ex.P6, arrest memo Ex.P7, intimation memo Ex.P8, rough site plan Ex.P9, chemical report Ex.P10 and identified you and case property MO1. **PW-4 SCT Jagsir Singh** the depositing of sample in the office of Chemical examiner and gave acknowledgment to HC Sukhwinder Singh and **PW-2 HC Sukhwinder Singh** deposed regarding depositing of illicit liquor in the malkhana and handed over sample to SCT Jagsir Singh for depositing the same in the office of chemical examiner and thus completed the chain of link evidence.

The said witnesses were cross examined by the Ld. Defence counsel but nothing favourable comes in favour of accused. From the testimony of **PW-1 HC Kala Singh and PW-3 SCT Shalender Singh** and from the material evidence on record and documents i.e. ruqa Ex.P1, FIR Ex.P2, endorsement Ex.P3, form M-29 Ex.P4, recovery memo Ex.P5, personal search memo Ex.P6, arrest memo Ex.P7, intimation memo Ex.P8, rough site plan Ex.P9, chemical report Ex.P10 and case property MO1 the version of the prosecution stands duly proved.

16. Although the accused has denied the prosecution story, yet it is to be observed that no major contradiction has emerged in the evidence of prosecution witnesses.

17. No doubt, it is desirable to join an independent witness at the time of recovery but at the same time testimony of the official witnesses cannot be disbelieved on the ground that no independent witness was joined, particularly when no enmity has been alleged or proved against the prosecution witnesses. Further, if the testimony of an official witness inspires the confidence of the Court, accused still can be convicted under the law.

18. From the testimony of PW-1 and PW-4 the prosecution version stands duly proved on record documents from Ex.P1 to Ex.P10 and case property MO1. As such, from the material evidence on record and documents, the version of the prosecution stands duly proved.

19. In view of the above discussion, I hold that prosecution has been able to prove guilt of the accused. As such, I convict accused under section 61 of Punjab Excise Act. The convict is taken into custody. Let, he

be heard on question of sentence.

Pronounced:
24.10.2024

(Sumukhi),PCS,
Sub Divisional Judicial Magistrate,
Malout.
(UID PB0379)

Monika stenographer Gr-II

Quantum of Sentence:

Present: Sh. H.S.Virk, Ld. APP for the State.

Convict in custody represented by Sh. S.S. Bhullar, Advocate.

20. I have heard the convict on the question of sentence. He stated that he is first offender and lenient view be taken. He has prayed for leniency stating that he is not previous convict and is a poor man and is only bread winner of his family. Keeping in view the entire facts and plea of convict, I am of the view that one chance should be given to the accused to reform himself. As such accused is ordered to be released on probation on his furnishing probation bonds in the sum of Rs. **50,000/-** with an undertaking to keep peace and good behaviour for period of six months. The case property be destroyed after expiry of period of appeal or revision as per rules. File be completed and consigned to the judicial record room after due compliance.

Pronounced:
24.10.2024

(Sumukhi),PCS,
Sub Divisional Judicial Magistrate,
Malout.
(UID PB0379)

Monika stenographer Gr-II
dictated directly