

**IN THE COURT OF MOHINDER PARTAP SINGH LIBRA, PCS
JUDICIAL MAGISTRATE FIRST CLASS
AT MALOUT**

PBSMB10011852022



**Date of Institution:- 18.04.2022
CIS No. CHA-83-2022
CNR No. PBSMB1-001185-2022
Date of Decision:- 02.02.2026**

State Versus Bunty son of Daya Ram resident of village Tappa
Khera.

...Accused

FIR No. 242 of 26.08.2021
Under Sec. 61-1-14 of Punjab Excise Act
Police Station : Lambi

Present: Sh. Jashandeep Tarika, Id. APP for the State
Accused on bail with counsel Sh. Gurvinder Singh Manes,
Advocate.

J U D G M E N T :-

1. The above named accused has been sent to this Court by the Officer In-Charge of Police Station Lambi to face trial for the commission of offence punishable under Section 61-1-14 of Punjab Excise Act.
2. Succinctly, the case of prosecution as emanates from the police report submitted under Section 173 Cr.P.C. and documents appended therewith, is that on dated 26.08.2021 HC Sandeep Singh along with other police party were on patrolling duty and when they were

present about one km ahead from village Adania, IO noticed one person who was coming on motor-cycle while placing a canny plastic on front of motorcycle in between his legs. IO gave the signal to stop the motor-cycle but he tried to turn the motor-cycle. He was apprehended at the spot with the help of police party. He disclosed his name as Bunty son of Daya Ram r/o Tapa Khera. IO checked the contents of canny plastic and found illicit liquor. IO tried to join independent witness but nobody was ready to join the investigation. IO separated 180 ML to serve as a sample nip and remaining was found 8 3/4 bottles of illicit liquor 750ML each and IO again poured the same into the canny plastic and IO sealed the sample nip and canny plastic with his bearing impression "SS" and IO filled form No. 29 at the spot and affixed sample seal on the same. The sample seal was separately prepared on form No. 29 by IO. The seal after use handed over to SCt Baljinder Singh. The whole case property including motor-cycle bearing no. PB08BL1074 make Platina was taken into police possession. IO sent ruqa through PHG Surjeet Singh for the registration of the FIR. IO prepared the rough site plan. Statement of witnesses was record. Accused was arrested. After the completion of investigation and other formalities, challan against accused was presented in the court.

3. On the appearance of accused, copies of police report submitted under Section 173 Cr.P.C along with documents appended therewith, were supplied to accused, free of costs as envisaged under Section 207 Cr. P.C.

4. From the perusal of charge-sheet submitted by police as well

as documents appended therewith, prima-facie case under Section 61-1-14 of Punjab Excise Act, was made out against accused and accused was charge-sheeted accordingly. The contents of charge-sheet were read over and explained to accused in simple Punjabi, to which, he pleaded not guilty and claimed trial.

5. To substantiate its case, prosecution got examined following witnesses:-

PW-1	HC Sandeep Singh No. 1164/SMS (Investigating Officer)	IO of this case and he proved on record form M.29 Ex.P1, police possession memo Ex.P2, ruqa Ex.P4, FIR Ex.P5, rough site plan Ex.P6, arrest memo Ex.P7, personal search memo Ex.P8, intimation memo Ex.P9, police possession memo Ex.P10, chemical examiner report Ex.PX and case properties MO1 and MO2.
PW-2	Ct. Surinder Singh No. 545/SMS	Witness to prove on record affidavit Ex.PW2/A, in which he deposed regarding depositing of sample parcel in chemical examiner lab by him for testing.

Thereafter, evidence of prosecution was closed by Ld. APP for the State.

6. Statement of accused in terms of Section 313 Cr.P.C was recorded, wherein all the incriminating evidence appearing against him in the prosecution evidence was put to him, to which, he pleaded innocence and false implication.

7. Accused person opted not to lead evidence in his defence.

8. This court has heard the submissions made by Learned APP for the State and learned defence counsel and has also gone through the

prosecution evidence. From the entire case, following points for determination emerge out of :-

- 1. "Whether on 26.08.2021 at about 06:37 PM in the area falling within the jurisdiction PS Lambi, you accused was found in possession of 09 bottles of illicit liquor in the plastic canny without having any valid permit or license?"*
- 2. "Whether the evidence of prosecution led on the file is sufficient to hold the accused guilty and to convict and sentence him?"*

POINTS NO. 1 & 2 FOR DETERMINATION:-

9. Both the points for determination have been taken up together for the sake of brevity and to avoid repetition. Ld. APP for the State, has argued that all the prosecution witnesses have deposed on the lines of prosecution story and proved on record documents such as witness to prove on record form M.29 Ex.P1, police possession memo Ex.P2, ruqa Ex.P4, FIR Ex.P5, rough site plan Ex.P6, arrest memo Ex.P7, personal search memo Ex.P8, intimation memo Ex.P9, police possession memo Ex.P10, chemical examiner report Ex.PX and case properties MO1 and MO2. Thereby, placing reliance on the oral statements of witnesses and documentary evidence proved on record by prosecution, learned APP for the State has further contended that the case of prosecution has been established on record beyond the shadow of reasonable doubt, therefore, accused must be convicted and be sentenced with maximum punishment as provided under law.

10. On the other hand Ld. Counsel for the accused argued that accused has been falsely involved in this case. He was not found in

possession of any liquor. A false case has been planted upon the accused. Moreover, there are various discrepancies in the statements of the prosecution witnesses. Hence, benefit of doubt be given to the accused. Accused is innocent, benefit of doubt be given and he be acquitted.

11. After giving thoughtful consideration to the rival submissions made by learned APP for the State as well as learned defence counsel, this court has minutely scrutinized the oral and documentary evidence and after going through the entire record otherwise available on the file, is of the considered view that it is the burdened duty of prosecution to prove its case beyond reasonable doubt. Accused has constitutional right to remain silent during the course of trial and if any doubt is created in the case of prosecution, benefit of it should be substantiated in favour of accused.

12. In the present case, in order to bring home the guilt of accused, prosecution got examined two witnesses. Out of these witnesses, **PW-2 HC Sandeep Singh, IO** of this case, was examined to prove the sequence of investigation conducted by him and he has also proved on record form M.29 Ex.P1, police possession memo Ex.P2, ruqa Ex.P4, FIR Ex.P5, rough site plan Ex.P6, arrest memo Ex.P7, personal search memo Ex.P8, intimation memo Ex.P9, police possession memo Ex.P10, chemical examiner report Ex.PX and case properties MO1 and MO2. His evidence was duly supported and corroborated with the testimony of remaining prosecution witnesses.

13. It was contended by learned defence counsel that no independent witness was joined by the police party from general public at

the time of effecting recovery from accused, thus compliance of provisions of section 100 of Cr.P.C was not made, as such the fact of recovery in the present case cannot be said to have been proved. However, in this regard perusal of testimony of PW-1 reveals that he has specifically got mentioned the fact that IO has tried to join in investigation some persons from general public, but no one got agreed to it. No doubt, PW-1 has not stated about any action that might have been taken by IO against those persons, who have not given assistance to police, but simply due to the reason that no independent witness was joined in investigation, the testimony of official witnesses cannot be discarded. In this regard, it was held by Hon'ble Division Bench of Punjab and Haryana High Court in *“State of Punjab Vs. Bhadar Sain, 1979 Cr.L.J. (P&H) 1 (DB)”*, that official status of a witness is not ipso facto sufficient to discard his testimony. Similarly, in the case titled as *“Akmal Ahmad Vs. State of Delhi 1999(2) R.C.R (Criminal) 265 (S.C.)”* it was held by Hon'ble Supreme Court of India that the evidence of search and seizure will not become vitiated solely for the reason that evidence is not supported by independent witness. Thus, non joining of independent witness does not vitiate the prosecution case as regards recovery of illicit liquor from accused. Accordingly, the above said contention raised by learned counsel for accused cannot be considered, being without merits.

14. Moreover, arguments addressed by learned counsel for the accused that he has been falsely implicated in this case also does not hold good as accused has failed to prove any ill-will on part of the police party

or any previous enmity of police with him, due to which he would have been falsely implicated in this case. Even accused has failed to examine any witness in his defence evidence to prove the above stated pleas taken by him and to prove his innocence.

15. Furthermore, from the perusal of testimony of prosecution witnesses, it is clear that link evidence in the present case has been duly established proving the fact that case property remained intact, while in the custody of police till the sending of sample parcel to Chemical examiner for obtaining chemical examination report, which is on record. Parcels were sealed with the seal bearing impressions "SS" and sample seal was handed over to Sct. Baljinder Singh. Thereafter, on the same day, IO has deposited the case property along with sample parcel with seal bearing impression "SS" in the Malkhana and entry in this regard was made in register no.19 maintained by MHC Gurpal Singh. Thereafter, on 31.08.2021, sample parcel was given to Ct. Surinder Singh to deposit the same with Chemical Examiner, Kharar, who has also corroborated this fact in his own testimony as **PW-2**. Moreover, Chemical Examination report clearly shows that the liquefied substance found in the possession of accused was illicit liquor.

16. It was argued by learned Counsel for accused that there are material contradictions in the statements of prosecution witnesses, creating doubt in its version. However, in this regard, it is apposite to mention here that no doubt, there is discrepancy qua doing of the writing work on the spot and about the articles used for weighing the liquor, but

such kind of contradictions cannot in any eventuality be considered as material in nature, brushing out the entire prosecution evidence, which is clearly establishing the guilt of accused in this case, accordingly, it is valid enough to conclude that the above said argument advanced on behalf of accused is not sufficient to avoid his liability in this case as the link evidence is complete in the present case.

17. Thus, in view of my aforesaid discussions, facts and law as referred above, it can be validly concluded that prosecution remained successful in proving on record the guilt of accused beyond the shadows of reasonable doubt by leading cogent and convincing piece of evidence, as such accused is held guilty under Section 61-1-14 of Punjab Excise Act and is accordingly **convicted** there under. Let convict be taken into custody and be heard on the question of sentence.

Pronounced In Open Court:- (Mohinder Partap Singh Libra) PCS
Dated: 02.02.2026. Judicial Magistrate 1st Class,
Malout (**UID PB0653**).

QUANTUM OF SENTENCE

Present: Sh. Jashandeep Tarika, Ld.APP for the State.
Convict with counsel.

1. I have heard the learned APP for the State and learned Counsel for the convict and convict in person.

2. Convict has submitted that he is poor and single bread earner of his family. He has prayed for lenient view.

3. On the other hand, APP for the State argued that convict should be severally punished so that the punishment awarded to him acts as a deterrent to the like minded people.

4. After giving my thoughtful consideration to the rival submissions of Ld. APP for the State and Ld. Counsel for convict, this Court is of the view that this Court is bound to consider the fact as to whether convict is entitled to be released on probation before passing sentence upon him. Therefore, after taking into consideration the principle enshrined in the criminal jurisprudence, this Court is of the view that principle of imposition of punishment is to serve a dual purpose i.e., retributive cum re-formative, as such, keeping in view the entire facts and circumstances of this case and the antecedents of convict, I am of the view that benefit of probation should be given to him. Moreover, ends of justice shall be squarely met, if convict be released on probation, as such, convicted is ordered to be **released on probation** on furnishing personal probation bonds in the sum of **Rs. 20,000/-, for a period of 6 months**, undertaking to keep peace and to be of good behavior and in default, to

come present before this Court during the said period to receive sentence, if so called upon during this period along with cost of proceedings to the tune of Rs. 500/-. Probation bonds furnished which are accepted and attested. The case property, if any, is ordered to be dealt with as per law, subject to the result of appeal or revision, if any. Copy of Judgment be given to convict free of costs. File be consigned to the record room, Malout after due compilation.

Pronounced In Open Court:-
Dated: 02.02.2026

“Directly dictated”
‘Yadwinder Singh’
Stenographer Gr-II

(Mohinder Partap Singh Libra) PCS
Judicial Magistrate 1st Class,
Malout (**UID PB0653**).