

**IN THE COURT OF SH. SUKHWINDER SINGH, PCS,
SUB DIVISIONAL JUDICIAL MAGISTRATE, PHUL.
(UID NO.PB0332)**

Challan No.43 of 18.07.2018
CNR No.PBBTB1-000692-2018
CIS No.CHA/89/2018
Date of decision: 18.07.2018

STATE

Versus

**MAGHAR SINGH, AGE ABOUT 62 YEARS, SON OF BELA
SINGH, RESIDENT OF VILLAGE MEHRAJ, PATTI KALA,
TEHSIL PHUL, DISTRICT BATHINDA.**

.....Accused.

FIR No.79 dated 20.07.2017
U/S 61 /1/14 of Punjab Excise Act
Police Station : City Rampura.

Present: Sh. Chand Kumar, APP for the State.
Accused on bail, with counsel Sh. V.K. Garg, Advocate.

JUDGMENT

1. The accused has been sent up by SHO Police Station City Rampura to stand trial for offence u/s 61 of The Punjab Excise Act.
2. Succinctly, the prosecution case is that on 20.07.2017 at about 09.35 PM in the area of Mandi Rampura accused was found in possession of 11 bottles Sartaj and 7 bottles of Shahhi, without any permit or licence and committed the offence punishable u/s 61 of Excise Act. So the present case was registered against the accused. Investigation was initiated and after recording statement of witnesses and on completion of investigation, challan was presented in the Court.
3. On appearance of accused in court, copies of documents along with report u/s 173 Cr.P.C. were supplied to the accused free of costs as

envisaged u/s 207 Cr.P.C.

4. After hearing APP and defence counsel, prima facie case was found to have been made out against accused u/s 61(i)(a) of The Punjab Excise Act. Accused was charge sheeted accordingly. Contents of charge were explained and read over to accused in Punjabi language to which accused pleaded not guilty and claimed trial.

5. Onus to prove the case was on prosecution and in order to prove its case, prosecution examined HC Karam Singh, investigating officer as PW1. The testimony of investigating officer has gone unrebutted and finding no improvement by examining other formal witnesses, the evidence of prosecution was closed by order.

6. The accused was examined u/s 313 Cr.P.C. by putting entire incriminating evidence to which he has denied and pleaded that he has been falsely implicated and is innocent. However, he did not opt to lead any evidence in defence.

7. I have heard APP and learned defence counsel and gone through the record on file very carefully.

8. The learned APP for the state squarely argued that the prosecution has succeeded to prove the case against the accused from the evidence on file beyond any reasonable doubt. Further PW1 has fully supported the case of prosecution. On the other hand, accused refuted the assertion made by prosecution.

9. After hearing the rival contentions of both learned APP as well as the accused and from perusal of the material on record, this court is of the considered opinion that prosecution has successfully proved

offence of the accused beyond any reasonable doubt. Deposition of HC Karam Singh, investigating officer as PW1 categorically proved the fact of commission of offence by the accused. He has proved on record ruqa Ex.PA, FIR Ex.PB, recovery memo Ex.PC, rough site plan Ex.PD, arrest memo Ex.PE, personal search memo Ex.PF, Form No.M29 Ex.PG, sample seal Ex.PH and chemical examiner report Ex.PI. Case property was also produced as MO1. The evidence led by the prosecution remained un-rebutted and unchallenged as accused has failed to lead any evidence to rebut the evidence led by the prosecution.

10. Hence, from the appraisal of the record it is abundantly clear that prosecution has been able to prove its case beyond any reasonable doubt. Accordingly, accused is convicted u/s 61 of Excise Act. Let he be heard on the quantum of sentence.

Pronounced.
Dt.18.07.2018.

(Sukhwinder Singh),
Sub Divisional Judicial Magistrate,
Phul/UID:PB0332.

QUANTUM OF SENTENCE

Present: Sh. Chand Kumar, APP for the State.
Convict in person.

Convict has been heard on the quantum of sentence. He submitted that he is poor and old man, first offender and has no source of income and prayed that he be given benefit of probation. Submissions made by convict person appear to be genuine. Taking into account his antecedents and nature of offence, this court deems it a fit case where ends of justice would meet if the convict is released on probation. Hence, the convict is ordered to be released on probation on his furnishing

personal probation bonds in the sum of Rs.10,000/- for a period of six months with an undertaking to keep peace and be of good behaviour and to receive sentence as and when called upon to do so during the said period. Case property be disposed of as per rules subject to the result of appeal or revision, if any. File be consigned to the Judicial Record Room, after due compliance.

Pronounced.
Dt.18.07.2018.

Sita Ram, Stenographer-II

(Sukhwinder Singh),
Sub Divisional Judicial Magistrate,
Phul/UID:PB0332.