

**IN THE COURT OF ASHISH THATHAI, PCS,
SUB DIVISIONAL JUDICIAL MAGISTRATE,
NIHAL SINGH WALA (UID No.PB-0355)**

Police Challan No.75 of 2020
Date of Institution of Challan 11.05.2020
CIS No.CHI/75/2020
CNR No.PBMOA1-000274-2020
Date of Decision:-08.04.2022

S T A T E

Versus

Gora Singh son of Ajmer Singh son of Bela Singh, resident of
village Burj Hamira, Tehsil Nihal Singh Wala, District Moga.

.....Accused

FIR No:84 of 06.06.2019,
Under Section: 61 of Punjab Excise Act,1914,
Police Station Nihal Singh Wala.

Present:- Mr.Sukhdev Singh, Learned Additional Public
Prosecutor for the State.
Accused Gora Singh on bail, with Mr.Gurpreet Singh
Kangarh, Advocate.

JUDGMENT

1. The present challan has been filed against the above
named accused for his trial for the offence falling under 61 of Punjab
Excise Act, 1914, by the Station House Officer, Police Station
Badhni Kalan.
2. Briefly, the prosecution version is that on 06.06.2019,

HC Sikander Singh along-with HC Jagroop Singh and other police officials were on a private car and were going towards villages Burj Hamira, Dina Sahib etc. When the police party reached near Government Senior Secondary School situated in between villages Saidoke, Gajiana and Burj Hamira, then an informer imparted secret information that Gora Singh son of Ajmer Singh son of Bela Singh, resident of village Burj Hamira is habitual of distilling and selling illicit liquor in his house. If raid be conducted immediately, above-said Gora Singh can be apprehended along-with illicit liquor or lahan. Finding the information to be reliable, ruqa was sent to the police station through PHG Gurcharan Singh, on the basis of which the present FIR was registered. Thereafter, HC Sikander Singh along-with other police officials conducted raid at the disclosed place i.e. at the house of above Gora Singh, where one plastic can was recovered and on checking of the same illicit liquor was recovered. On measurement, same came out to be 08 bottles (750 ML each bottle) of illicit liquor. One quarter (180ML) was separated as sample and converted into sample parcel and sealed by HC Sikander Singh with his seal bearing impression 'SS'. Remaining illicit liquor were put in a same plastic can and converted into separate parcel and sealed by HC Sikander Singh with his seal bear-

ing impression 'SS'. Specimen seal was also prepared on Form No.29-M. Seal after use was handed over to HC Jagroop Singh. Site plan of the place of recovery was prepared. Accused was formally arrested and released on bail. Statements of witnesses were recorded. Necessary legal formalities were completed and after completion of entire investigation, the challan against the accused was prepared and presented under Section 61 of the Punjab Excise Act, 1914.

3. On appearance of the accused in the court, copies of necessary documents as relied upon by the prosecution were supplied to the accused free of cost as required under section 207 Cr.P.C.

4. Finding a prima-facie case under Section 61 of Punjab Excise Act, 1914 against the accused, he was charge sheeted accordingly, to which he pleaded not guilty and claimed trial.

5. In order to bring home the guilt of the accused, prosecution examined PW-1 HC Jagroop Singh (Recovery Witness). Thereafter, Learned Addl.P.P. for State closed the prosecution evidence vide separately recorded statement.

6. On closure of prosecution evidence, statement of accused under section 313 Cr.P.C. was recorded in which all the

incriminating evidence appearing against the accused from the prosecution evidence was put to him, to which he pleaded that he is innocent and has been falsely implicated in the present case and nothing incriminating was recovered from him. Accused opted not to lead evidence in his defence.

7. Learned Additional Public Prosecutor for the State has argued that since the accused was apprehended while in possession of one plastic can containing 08 bottles (750 ML each bottle) of illicit liquor and further the prosecution witness has fully deposed in accordance with prosecution version and factum of recovery of country-made liquor have been established on the file. Hence, accused is liable to be convicted.

8. On the other hand, learned defence counsel has argued that accused has been falsely implicated in the present case and nothing incriminating was recovered from him. He further contended that case of the prosecution is doubtful and finally prayed that by giving benefits of doubt accused be acquitted of the charge framed against him.

9. I have heard learned Additional Public Prosecutor for the State and learned defence counsel and have carefully gone through the file.

10. **Firstly**, in order to prove the allegations against the accused, prosecution examined PW-1 HC Jagroop Singh (Recovery Witness), who appeared in the witness box and reiterated all the facts as mentioned in the police report. He deposed that on 06.06.2019, on the basis of secret information raid was conducted at the house of accused and 08 bottles (750 ML each bottle) of illicit liquor from him. He proved on record various memos i.e. ruqa as Ex.P1, FIR as Ex.P2, specimen seal on form No.29-M as Ex.P3, memo of recovery as Ex.P4, site plan of the place of recovery as Ex.P5, memo of arrest of accused as Ex.P6, personal search memo of accused as Ex.P7, intimation of arrest memo of accused as Ex.P8 and report of FSL as Ex.P9.

No doubt the above-said witness has been formally cross-examined by the learned counsel for the accused, but nothing substantial has come out from his cross-examination favouring the accused.

Meaning thereby, the recovery of 08 bottles (750 ML each bottle) of illicit liquor from accused stands proved on record.

11. **Secondly**, the first contention raised by the learned counsel for the accused that the accused has been falsely implicated in the present case, is not sustainable in the eyes of law as accused

has also failed to prove on record any previous enmity of the police party with the accused.

12. **Thirdly**, the next contention raised by the learned counsel for the accused that nothing was recovered from the accused does not sustain in the eyes of law as PW-1 HC Jagroop Singh (Recovery Witness) has categorically deposed about the recovery of 08 bottles (750 ML each bottle) of illicit liquor without any permit or licence from the accused and proved the same on file. Thus, this argument does not sustain in the eyes of law.

13. Therefore, in view of above discussion the prosecution has successfully able to prove the offence against accused Gora Singh beyond shadow of reasonable doubt.

Accordingly, accused Gora Singh is held guilty for offence under Section 61 of the Punjab Excise Act, 1914 and is convicted thereunder. The convict be heard on question of sentence.

Sd/-

Pronounced:-
Dt.08.04.2022.
Angrej Singh, STG-II.

(Ashish Thathai), PCS,
Sub Divisional Judicial Magistrate,
Nihal Singh Wala,
(UID No.PB-0355).

QUESTION OF SENTENCE

Present:- Mr.Sukhdev Singh, learned Additional Public
Prosecutor for the State.
Convict Gora Singh in custody, represented by
Mr.Gurpreet Singh Kangarh, Advocate

1. Heard on the question of sentence. The convict prays for leniency while quantifying the sentence to be imposed upon him by presenting himself as poor and solitary bread earner of his family.
2. In view of modern trend of criminal penology which aims at providing the convict with another chance to rehabilitate himself in the society as law abiding citizen instead sentencing him to short terms of imprisonment where he is likely to spoil further in the company of hardened criminals. The antecedent track of the accused as laid before me is without blemish and does not suggest against providing benefits of probation of offenders act to him.
3. Consequently, the convict is ordered to be released on probation under Section 61 of the Punjab Excise Act, 1914 on his furnishing personal probation bonds in the sum of ₹ 10,000/- with undertakings to be of good behaviour for 03 months from today.
4. Personal probation bonds furnished, which are accepted and attested. Case property, if any, be disposed of after the expiry of period of appeal/revision or subject to the result of appeal/revision, if

any. File be consigned to the record room.

Pronounced: Dt.08.04.2022. Angej Singh, STG-II	Sd/- (Ashish Thathai), PCS, Sub Divisional Judicial Magistrate, Nihal Singh Wala, (UID No.PB-0355).
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The operative part of the judgment have been read out
and explained in a simple language to the convict.

Pronounced: Dt.08.04.2022. Angej Singh, STG-II	Sd/- (Ashish Thathai), PCS, Sub Divisional Judicial Magistrate, Nihal Singh Wala, (UID No.PB-0355).
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List of Witness of the Prosecution:-

PW-1	HC Jagroop Singh	Recovery Witness
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List of Documents of the prosecution:-

Ex.P1	Ruqa
Ex.P2	FIR
Ex.P3	Specimen seal on Form No.29-M
Ex.P4	Memo of recovery
Ex.P5	Site plan of the place of recovery
Ex.P6	Memo of arrest of accused
Ex.P7	Personal search memo of accused
Ex.P8	Intimation of arrest of accused
Ex.P9	Report of FSL

Sd/-
(Ashish Thathai), PCS,
Sub Divisional Judicial Magistrate,
Nihal Singh Wala,
(UID No.PB-0355).

