

**IN THE COURT OF MS. AMANDEEP KAUR, PCS,
SUB- DIVISIONAL JUDICIAL MAGISTRATE, SUNAM.
(Unique Identification Code No.PB0307)**

CIS No.95-2020,
CIS No.PBSGA1000497-2020,
Decided on: 05.01.2023.

State

Versus

Sarabjit Singh son of Pala Singh, resident of Village Rattangarh
Sindhra, P.S. Dirba, District Sangrur.

...Accused.

**F.I.R. No.120 dated 19.07.2019,
Under Section 61/1/14 of Punjab Excise Act,
Police Station, Dirba.**

Present: APP for the State.
 Accused on bail with counsel.

JUDGMENT:-

The accused named above, has been sent up by the SHO of Police Station, Dirba to face trial for the commission of an offence punishable under Section 61/1/14 of Punjab Excise Act.

2- The prosecution story, in brief, is that on 19.07.2019, the police party headed by ASI Satgur Singh, in connection with patrolling and checking of suspicious persons, was present near bridge of drain Village Karial, where, on receipt of secret information against accused Sarabjit Singh for selling liquor, without any authority and believing the information to be credible, a ruqa was sent to the police for registration of FIR against accused Sarabjit Singh. Thereafter, the police party proceeded to conduct raid upon accused and during the way, one person was found coming on foot towards the police party, who was carrying one plastic bag in his right hand, who on seeing the police party, tried to skip away from the spot. On the

basis of suspicion, he was apprehended by the police party. From the search of plastic bag of accused, it was containing 12 bottles of country made liquor. The accused could not produce any license or permit for having in possession of country made liquor. Thereafter, all the bottles were emptied into one plastic cane and one sample of 180 ml was drawn. The sample and the bulk parcel were sealed with the seal of Investigating Officer. The recovered case property was taken into custody vide separate recovery memo. Rough site plan was prepared. The accused was arrested and his personal search was conducted. The statements of witnesses were recorded. On receipt of the report of Chemical Examiner and on completion of investigation, challan against the accused was presented before the court.

3- On appearance, accused was supplied copies of challan, as required under Section 207 of Cr.P.C.

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

5- To prove its case, the prosecution has examined PW-1 retired SI Satgur Singh, I.O. and thereafter, Ld. APP closed the evidence on behalf of prosecution.

6- The statement of accused under Section 313 Cr.P.C was recorded, in which, he pleaded innocence and false implication. However, accused did not opt to lead any evidence, in his defence.

7- I have heard the APP for the State, defence counsel and perused the file carefully. The point for determination in this case is:-

Whether, on 19.07.2019, in the area of Village Karial, 12 bottles

of country made liquor were recovered from the possession of the accused?

8- In support of the charge, prosecution examined PW-1 retired SI Satgur Singh, Investigating Officer, who unfolded the layers of prosecution story, while proving on file ruqa Ex.P1, FIR Ex.P2, endorsement Ex.P3, sample seal chit Ex.P4, form No.29 Ex.P5, recovery memo Ex.P6, rough site plan Ex.P7, arrest memo Ex.P8, personal search memo Ex.P9, report of Chemical Examiner Ex.PX and case property Ex.MO-1 and Ex.MO-2. Thereafter, learned APP closed the prosecution evidence.

9- On the contrary, accused while recording statement under Section 313 Cr. P.C. stated that he is innocent and has been falsely implicated in this case. In defence, no evidence was led by accused.

10- After having heard the rival submissions made by both the sides and going through the entire record, this court is of the considered opinion that the prosecution has been able to prove the allegations against the accused and the accused is liable to be punished. As per the allegations of the prosecution, on 19.07.2019, the accused was found in possession of 12 bottles of country made liquor without any permit or license. Now, in order to prove its case, the prosecution has examined PW-1 retired SI Satgur Singh, Investigating Officer, who has proved the mode and manner, in which, he conducted the investigation of present case. The prosecution clearly proved the recovery of 12 bottles of country made liquor from the possession of accused by way of evidence of PW-1 and the report of Chemical Examiner has been duly proved on record.

11- When opportunity was given to accused to cross examine the

aforesaid witness, he could not prefer to do so and meaning thereby, he has admitted the case of the prosecution and has nothing to say in his defence. As such, the deposition of PW-1 retired SI Satgur Singh, Investigating Officer, remained unrebutted and unchallenged, which is sufficient to prove the case of the prosecution, beyond shadow of doubt. It is settled position of law that when a witness is not cross examined, by the accused, on any point, the testimony of the witness, qua that point, is deemed to be admitted. Otherwise also, the testimony of prosecution witness inspires confidence and from the documents proved on record by the prosecution, no ground is made out to disbelieve and discard the same. There is nothing on the file, which may go to suggest that the accused has been falsely implicated. The report of the Chemical Examiner also shows that contents of the sample were that of country made liquor.

12- For the foregoing reasons, in my opinion, the prosecution has proved the guilt of the accused upto the hilt, beyond the shadow of reasonable doubt. Thus, the accused has committed an offence punishable under Section 61 of the Punjab Excise Act and the accused is held guilty and convicted there under. Let convict be taken into custody and be heard on question of sentence.

Pronounced in open Court.

Dated 05.01.2023.

**Amandeep Kaur, PCS,
Sub.Divn.Judl. Magistrate,
Sunam, UID No. PB0307.**

QUESTION OF SENTENCE

Present: Ld. APP for the State
Convict in custody along with counsel.

13- Convict has prayed that a lenient view be taken on the ground

that he is first offender and is having family to look after. In view of the plea of convict that he is first offender and is having family to look after, the convict is ordered to be released on probation subject to furnishing probation bonds in the sum of Rs.10,000/- for a period of one year, alongwith prosecution costs to the tune of Rs.500/-, during which the convict shall keep peace and be of good behavior and shall not commit similar offence during the probation period, failing which he shall be sentenced to imprisonment as well. He shall come present to receive the sentence as and when directed by the court. However, the accused has requested that he is poor person and can not arrange the surety bonds and he be released on probation on furnishing personal probation bonds. Request heard, considered and allowed. The accused is allowed to furnish personal probation bonds, which have been furnished, accepted and attested. Costs paid. Case property be disposed off, after the expiration of period of appeal or revision, if any. The file be consigned to the record room after due completion.

Pronounced in open Court
Dated 05.01.2023.

(Jaswinder Singh, JW-II)

Amandeep Kaur, PCS,
Sub- Divi. Judl. Magistrate,
Sunam, UID No.PB0307.

Present: APP for the State.
Accused on bail with counsel.

Learned APP closed the prosecution evidence. Statement of accused under Sec. 313 Cr.P.C recorded and the accused did not opt to lead any evidence in his defence.

Arguments heard. Vide my separate detailed judgment of even date, the accused is convicted of the charge framed against him under Section 61 of Excise Act, as stated therein. However, he is released on probation. Costs paid. File be consigned to the record room after due completion.

Pronounced in open Court
Dated 05.01.2023.

Amandeep Kaur, PCS,
Sub- Divi. Judl. Magistrate,
Sunam, UID No.PB0307.

(Jaswinder Singh, JW-II)